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APRIL 1971

OF THE LIBRARY OF CONGRESS



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The *Quarterly Journal* OF THE LIBRARY OF CONGRESS

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Cover: "Grecian Bend," one of the tobacco labels reflecting the light and lively fads and fashions of the years following the Civil War. (See page 94.)

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Editor's Note

Although the editors, during the production of the April *QJ*, had reason to question the word, the inspiration for this issue lay in the second revision of the copyright law, "An Act to revise, consolidate, and amend the statutes relating to patents and copyrights," approved on July 8, 1870. By centralizing the copyright business in the Library of Congress, the act provided a powerful source for the growth and enrichment of the collections of the national library.

Henry Clay submitted the first international copyright bill. He had earlier received a petition signed by 56 notable authors of Great Britain. In presenting this document to the Senate, Mr. Clay said: "Of all classes of our fellow-beings, there is none that has a better right than that of authors and inventors to the kindness, the sympathy, and the protection of government. And surely nothing can be more reasonable than that they should be allowed to enjoy, without interruption, for a limited time, the property created by their own genius."

Theodore Roosevelt was a strong champion of copyright and, on March 4, 1909, signed the act that provided for the third general revision of the copyright law. A little over three years earlier, he had sent a message to Congress in which he said: "Our copyright laws need revision. They are imperfect in definition, confused and inconsistent in expression; they omit provision for many articles which, under modern reproductive processes, are entitled to protection; they impose hardships upon the copyright proprietor which are not essential to the fair protection of the public; they are difficult for the courts to interpret and impossible for the Copyright Office to administer with satisfaction to the public."

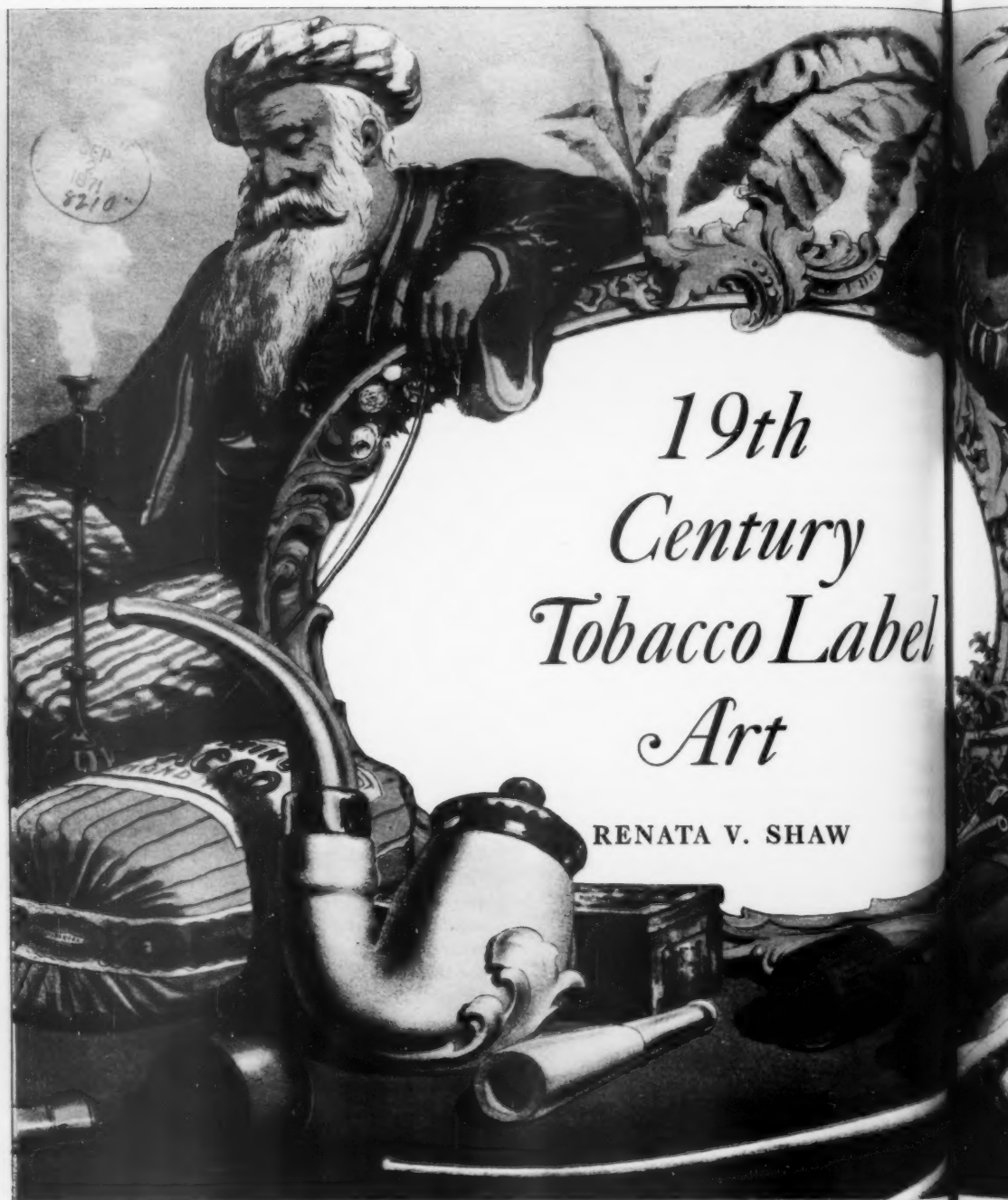
Mr. Roosevelt was justified in saying that the copyright laws should be revised to include

many articles that were entitled to protection. Three years after he had signed the 1909 act, the copyright law was amended to include motion picture films. Until the amendment was passed, film producers were forced to deposit their works in various forms, including Mutoscope reels, photographic stills or enlargements, photographs of the sets used in a motion picture, Kineographs (popularly known as thumb books or flip books), and complete motion pictures printed on positive photographic paper rolls. Between 1894 and 1912, when the copyright law was amended to include motion pictures as a distinct form, more than 6,000 films were deposited in the Library for copyright, and some 3,000 of them survived. The conversion of many of these to safety film created a priceless source for the study of the development of the motion picture.

The earliest copyright laws in this country were for the protection of literature and maps, although it was not long before they were extended to include musical compositions, prints, and engravings. Noah Webster, who was instrumental in the passage of the first American copyright law, enacted by the General Court of Connecticut in 1783 "for the Encouragement of Literature and Genius," did not dream that some 180 years later computer programs would be accepted for copyright registration. Although registrations had undoubtedly been made for computer programs as parts of books or periodicals, the three made in 1964 were probably the first for computer programs as such.

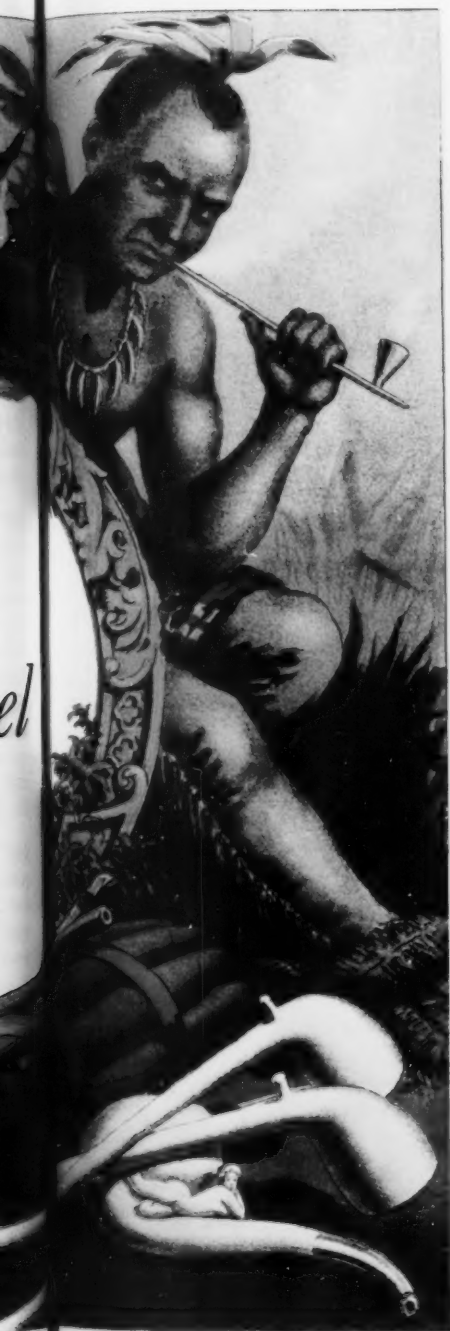
The 19th-century tobacco labels described by Renata Shaw owe their preservation to the Library's retention of copyright deposits. Even a cursory glance at the selection used as illustrations will reveal the history, customs, manners, and dress that are reflected in the labels, once considered ephemera.

SLW



*19th
Century
Tobacco Label
Art*

RENATA V. SHAW



American social history has been recorded in many ways, shapes, and forms—literature, music, art, drama. It can also be read on tobacco labels. Here portraits of political and military figures abound, sports personalities and stage scenes appear, paintings are reproduced and technological developments mirrored, the draft and evolution are satirized, and fashion and the feminine form are exalted.

The Prints and Photographs Division has among its 19th-century ephemera a collection of about a thousand tobacco labels acquired through copyright deposit from the 1840's to the 1880's, a period when all such deposits were retained. At the time, scant attention was paid to these seemingly worthless pieces of paper, because nobody then could see their value as a contribution to social history and industrial archeology. Today, they are precious examples of early American advertising and label "art."

Several important technical developments gave rise to the start of modern, colorful packaging of consumer goods: inexpensive machine-produced paper, cheap color lithography, and a vast network of shops with display shelves to accommodate a variety of individually packed wares.

From the beginning luxury goods, such as wine and tobacco, were the products on which the greatest ingenuity in advertising and presentation of goods was lavished. This was, of course, sound practice from the manufacturer's point of view. To tempt the consumer with goods not strictly life's necessities, he had to present packages that appealed to the buyer's snob sense, his yearning for elegance, and his desire for self-indulgence.

In the latter part of the 19th century, tobacco was sold mainly in the form of snuff, chewing tobacco, pipe tobacco, and cigars. Snuff was packaged in small cylindrical boxes; chewing tobacco was packed in wooden drums or in rectangular one-pound slabs, which were divided by the tobacconist into smaller chews, or plugs; pipe

By picturing the American Indian and the turbaned Turk together, the manufacturer advertised his Turkish-American blend of tobacco, an innovation of the 1860's.

Mrs. Shaw is the Reference Librarian in the Prints and Photographs Division.

ROUGH AND READY.



PRESSED, SWEET, FINE CUT CAVENDISH
TOBACCO,
Manufactured No. 2 Wall, 213 & 215 Duane Streets,
NEW-YORK.

Entered according to Act of Congress, in the year 1947, by JOHN ARDENSON & Co., the Manufacturers, in the Southern District of New-York.

tobacco came in drawstring bags, and cigars in wooden boxes with lids ideal for fanciful illustrations, both inside and out. The different sizes and shapes of tobacco packages explain the variety of labels in use during the 40-year period that saw them transformed from relatively simple black-and-white designs into the garishly brilliant inventions of the late 1880's.

The earliest of the surviving commercial labels resembled title pages of books and consisted of the name of the product in italics and some discreet border design to finish off the composition. Their purpose was identification of the product, with no thought of commercial boasting. When pictures were added to the design, they usually showed the mill or factory where the products originated or the dignified, bearded countenance of the manufacturer, whose facsimile signature was supposed to guarantee the purity and excellence of the product.

Eventually, competition between companies became too keen for the genteel approach. Some-

thing had to be done to attract the buyer's eye to the superior product. The most obvious device was to use more color to force the buyer to notice the package. Another was to choose an illustration that appealed to the special interests of the buyer—the male tobacco smoker.

There was no limitation to the subject matter considered suitable for decorating a tobacco label. It ranged from patriotic and lofty themes, current events of American life, and foreign historical events to personages, sports, and new inventions. On the lighter side, there appeared such favorites as sentimental portraits of maidens, children, and animals, Oriental nudes, goddesses and mermaids, foreign royalty, and splendidly attired Indians. The labels were not intended for a highly sophisticated public, although some were based on literary and artistic themes, and stars of the musical stage and the theater were frequently shown. The humor, often crude but always good natured, now seems touchingly naive and sentimental.

Although the 1840's had not evolved a true commercial style, advertisers already grasped the idea of timeliness in their sales message. What else would account for two different tobacco labels from 1847 both celebrating Gen. Zachary Taylor's victory at Buena Vista on February 23, 1847? Advertisers vied to be the first to publish a label celebrating some timely event: a military victory, a state visit, a new play or sports event, a new craze or fashion.

The oldest label in the collection is an 1844 black-and-white engraving for Maccoboy Snuff. Label art had not yet developed a pictorial language of its own but used traditional book-page composition for a new purpose.



Special interests of immigrants coming from Germany, Ireland, and England during the 1850's were also considered. Here, the Fenian movement is commemorated in an Irish label printed in green, with a verse designed to touch the sentiments of the Irish newcomer. The kilted Scot was another common symbol, for Scottish snuff manufacturers since the 18th century had sold their products widely in several countries. Thus the Scottish smoker could buy his American tobacco under a label well known to him from his homeland. Idealized portraits of Garibaldi—popular, perhaps, because he appealed to the democratic aspirations of the mid-19th-century immigrant—appeared on many different labels, from tobacco to sewing silk.



EL PYTHAGORAS

Fabrica de Tabacos
de las mejores vegas de la
VUELTA ABAJO

en Santiago

HABANA.

Copy right secured.



437 Political and military heroes were not the only famous figures to be found on tobacco labels. Dante, Goethe, and Tom Moore may not have had any connection with smoking, but they were an easily recognizable symbol of the "old country"; and familiar figures from classical history provided such unlikely label subjects as Seneca, Socrates, and Pythagoras.

438 It is understandable that inventions served as inspiration for labels in an age when everybody had faith in the improvement of life through better communications, rapid transportation, and other technological advances. The Library of Congress collection has three different labels—all poorly designed and hastily executed—commemorating submarine cable telegraphy, inaugurated in 1857. The trade name of the tobacco on the label shown suggests the importance popularly attached to this technological breakthrough.



GRAVELY'S BEST FLUE CURED

Prepared By
R. R. Sisson

Virginia SMOKING Tobacco.

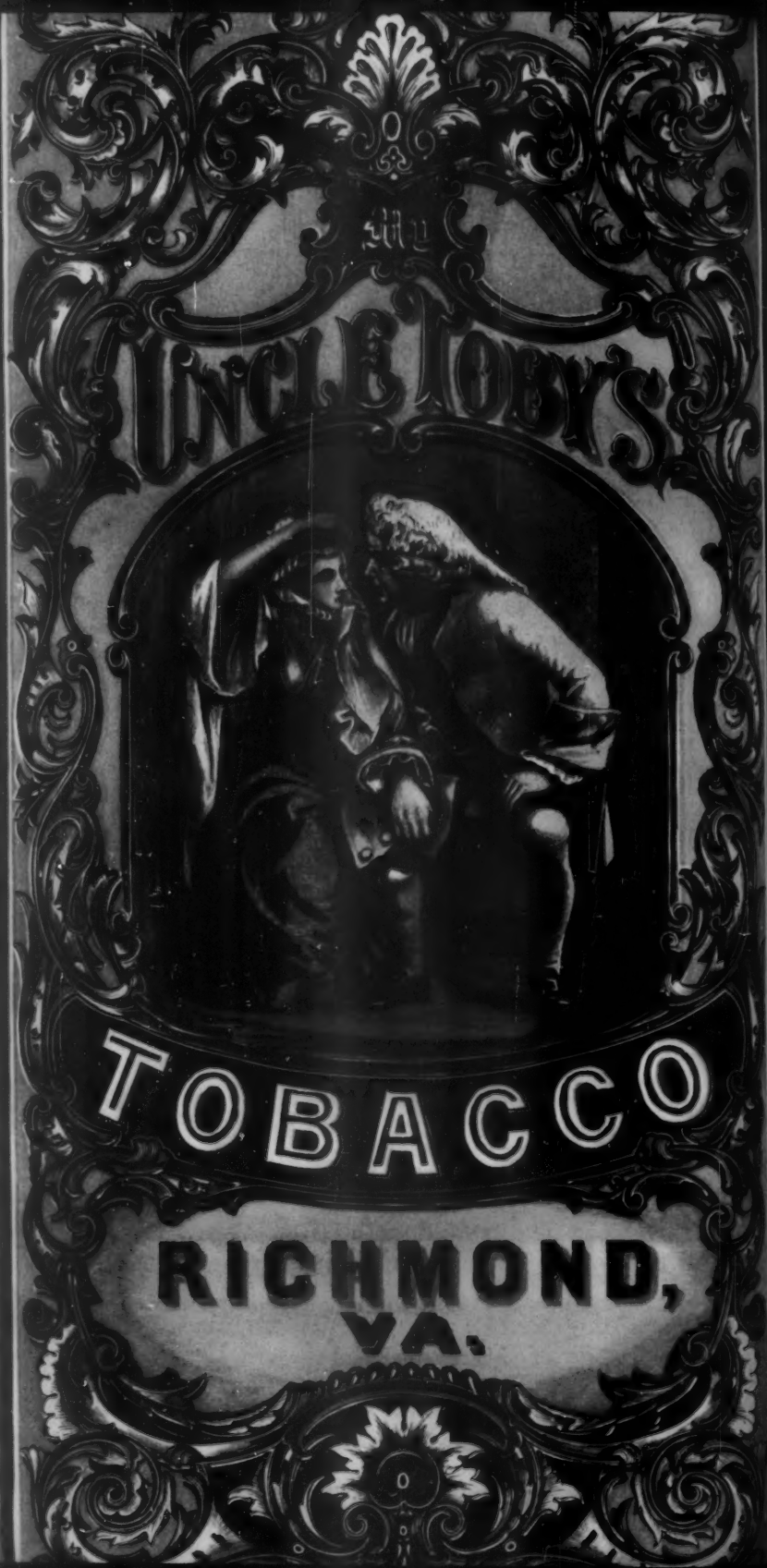
Entered under Special Provision of Act of Congress, March 3, 1879, Office of the Secretary of the Treasury.

26 An equally significant development in the 1850's was the establishment of ocean steamship lines, which made commerce and travel speedier, safer, and more dependable. The early vessels used steam only as auxiliary power to sails; they were, nevertheless, a vast improvement over sailing ships. A handsome color lithograph of the side-wheeler *Yorktown* shows large crates of tobacco on the pier waiting to be put aboard for shipment overseas.

26 Although tobacco labels were often copyrighted, the

manufacturers had no qualms about adapting to their purposes any picture that caught their fancy. In the collection are several clear examples of this type of borrowing. The first is the famous portrait of the Indian scholar Sequoyah, who became known through a McKenny and Hall lithograph that shows him displaying the Cherokee syllabary he invented which paved the way to literacy for thousands of his people. The tobacco manufacturer simply obliterated the Cherokee characters and substituted his own name.





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UNCLE LOBY'S



TOBACCO

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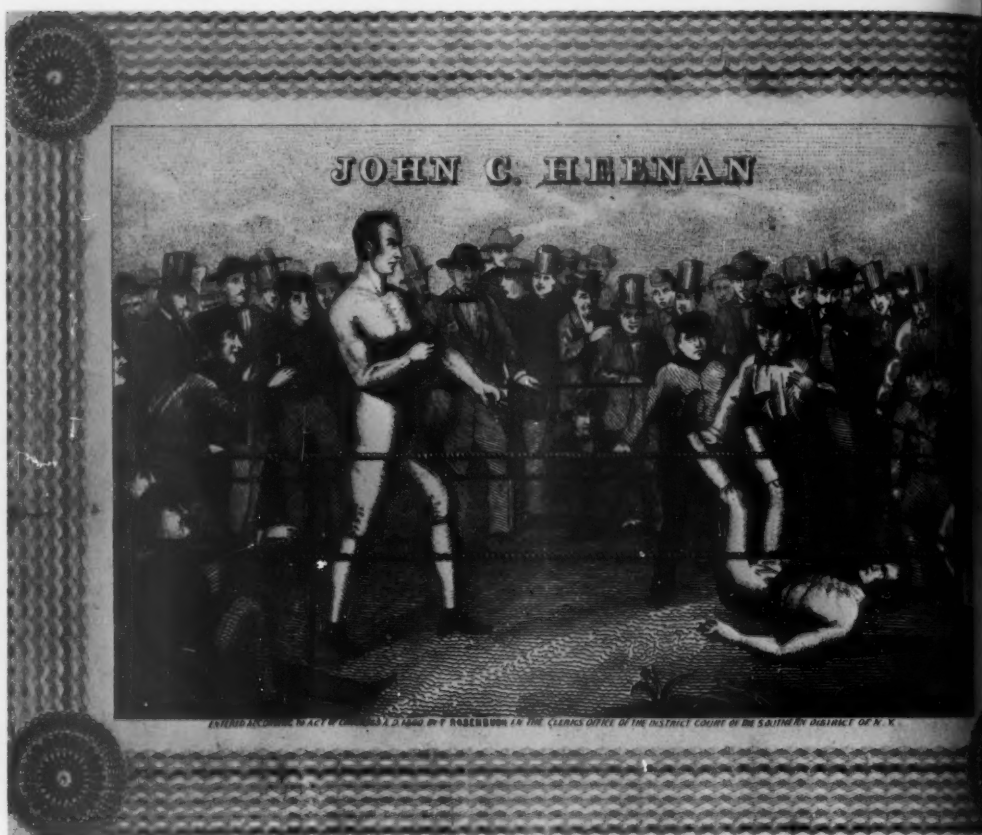
■ This handsome color lithograph was copied from Charles Robert Leslie's painting *Uncle Toby and Widow Wadman in the Sentry Box* (1851), today in the Tate Gallery in London. The painter based his genre scene on two important characters in Laurence Sterne's novel *Tristram Shandy*. Uncle Toby's longstemmed pipe made the painting suitable for a tobacco advertisement.

■ The labels also tell the story of tobacco culture. A Cuban with a palm-thatched roof farmhouse and surrounded by palms and tobacco plants is pictured on several black-and-white labels. In another, bales of tobacco are



being carried to a sailboat moored at the wharf directly below the fields. A small 1850 label showing a warehouse operator and a sailor exchanging papers for the hogsheads ready for shipping bears the optimistic mottoes: "Honest industry with enterprising perseverance shall succeed" and "Diligence is the mother of good luck!" In addition, the manufacturer promises to please "the taste of the most fastidious consumer of the weed." The scene here depicts a workroom, with cigarmakers rolling cigars by hand.

■ Toward the end of the 1850's color lithography achieved a high degree of technical proficiency, as seen in the large lithograph advertising the Empire State Brand, reminiscent of the seal of New York. The coloring is soft and rich, the design balanced and harmonious. The art of advertising was reaching a point of development where it was no longer dependent on the imitation of pictures created for other purposes.



✎ In 1860 considerable curiosity was aroused when the first Japanese mission arrived in the United States carrying a treaty box containing a letter from the Tokugawa Shogun to the President and a treaty in Japanese and English. This momentous visit to exchange ratifications of the 1858 commercial treaty was a direct result of Commodore Perry's successful effort to open Japan to American trade. American ignorance of the customs and interests of the Japanese is reflected in the tobacco labels inspired by the visit. A curious error was made in naming one brand of tobacco

Harikari. The label for it shows a pagoda-like carriage used in the New York parade of the Japanese commissioners. Tame (Tommy) Tateishi, the popular Japanese interpreter, and some attendants sit with the treaty box on the platform.

✎ An error of another type occurred in the brand name on a label honoring the visit of the Prince of Wales to New York in October 1860. The black-and-white engraved label is headed "El Principe de Wales" instead of "Gales," the Spanish form. The likeness is based on a well-known photograph from

the famous Brady studios in New York.

✎ Sports figures were also honored with tobacco labels displaying their names and portraits. Five different labels glorify John C. Heenan, American prizefighter, who returned to his homeland proudly sporting a championship belt after fighting the world champion, Tom Sayers, to a draw at Farnborough near London. Tom Sayers is shown sprawled on his back in the ring floored by a blow from the American. The fans eventually saved his life by pulling him out of Heenan's reach.

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HARIKARI
DE LA MEJOR HOJA DE
FABRICA DE TABACOS
LA VUELTA DE ABAJO SUPERIORES

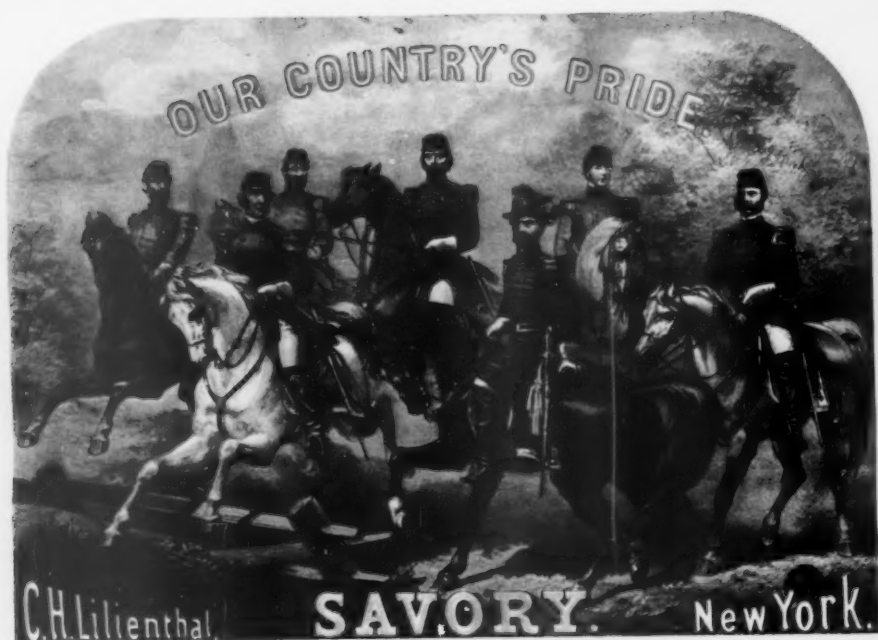
de L. B. & C^o

Calle de la Salud N^o 133

HABANA.

Entered according to act of Congress, in 1860 by L. B. & C^o in the clerk's office of the dist. court of the southern dist. of N. Y.





THE CONSCRIPT!

SEGAIRS WARRANTED MANUFACTURED

of the very best

YUELTA ABAJO TOBACO.

FABRICO DE TABACOS

de la mejor hoja de la vuelta - a bajo

Garantizados por

Juan Stralton

HABANA.



17 "Loyal," "Union," and "The Patriots Pride—the Old Flag" were Civil War period tobacco labels decorated with flags, American eagles, and liberty caps—all patriotic symbols designed to appeal to supporters of the Union. Only one label reflects dissenting opinion: a caricature of a draftee awkwardly holding his rifle while two street urchins poke fun at him in the background. An officer grabs another conscript by the collar

to line him up with the rest of the new soldiers. The label was copyrighted in 1863, the year opposition developed to the newly passed conscription act. In the same year a label sympathetic to the South and featuring Lee appeared. Another, "The Constitution," which shows a handshake below the flag of the United States surrounded by symbols of the Republic, expresses the spirit of conciliation appropriate to 1866.

18 With the start of the Civil War, the popular heroes were the military leaders. An early label devoted to one of the decisive events of the strife shows Fort Sumter in Charleston Harbor with Major Anderson in a medallion portrait surrounded by flags, cannon balls, and cannon. The label for "Our Country's Pride" is a color lithograph of seven famous Union generals on horseback—Henry W. Halleck and George B. McClellan, left and right in the foreground, and George C. Meade, Philip H. Sheridan, Franz Sigel, Joseph Hooker, and Ambrose E. Burnside, left to right in the background. Individual labels were also devoted to McClellan and to Ulysses S. Grant, David S. Stanley, William Tecumseh Sherman, and Michael Corcoran, the commander of the "Irish Legion," and to the Confederate Generals Robert E. Lee, "Stonewall" Jackson, and Joseph E. Johnson.

ALEXANDER IMPERIALS

FABRICA DE CIGARROS PUROS

DE LAS MEJORES VEGAS

DE LA VUELTA ABAJO

de A. L.

HABANA.

Entered according to Act of Congress, A.D. 1864, by A. L. Alexander, in the Clerk's Office of the District Court of the Southern District of New York.

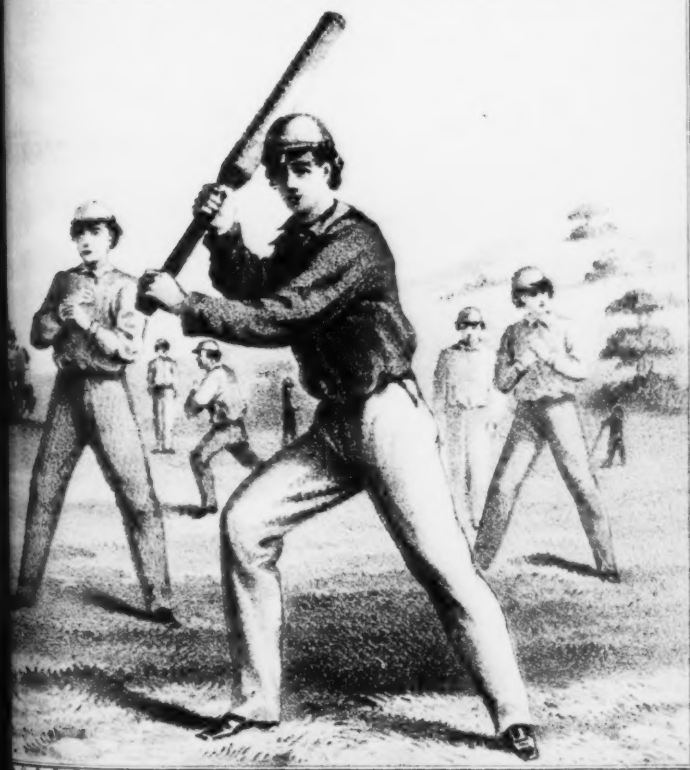


Lith of F. Heppenheim, 22 N. William St. N.Y.

THE
FIRST NINES
 CIGARS MANUFACTURED OF THE BEST
VUELTA ABAJO TOBACCO

BY

A. J. C. A.



Even during the Civil War years European political events and personalities were featured on tobacco labels. "Italia Unita" celebrated the unification of Italy in 1861, and "Schleswig Holstein" alluded to the events of 1864 when Austria joined with Prussia to separate Schleswig-Holstein from Denmark. "Alexander Imperials" shows the "Czar Liberator" Alexander II of Russia, whose reign was characterized by a cautious move toward liberalism. Other members of European royal houses, particularly beautiful princesses, were favorites of tobacco advertisers. Princess Alexandra of England and Empress Eugénie of France graced labels for chewing tobacco, the latter transformed into the "Belle of Kentucky."

The postbellum era introduced labels featuring sports and pastimes popular in all sections of the country, from baseball to billiards. Even before 1869, when the first professional team—the Cincinnati Red Stockings—was founded, labels advertised both tobacco and baseball, which had emerged as a national sport during the Civil War.

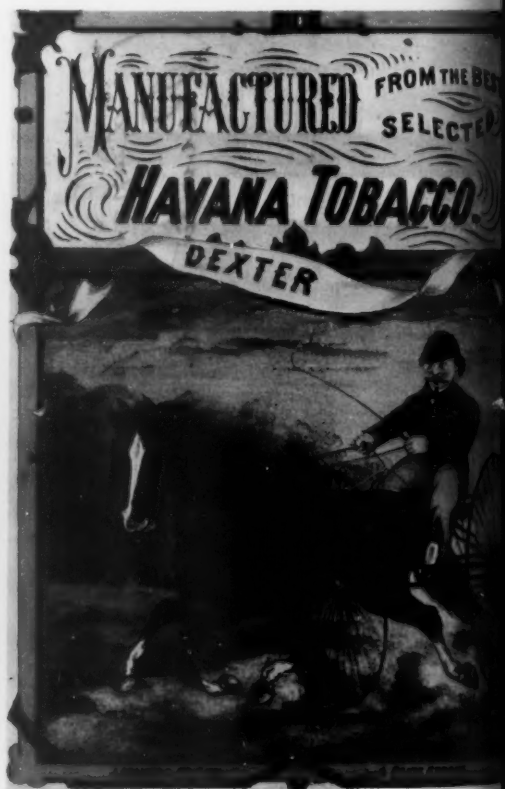
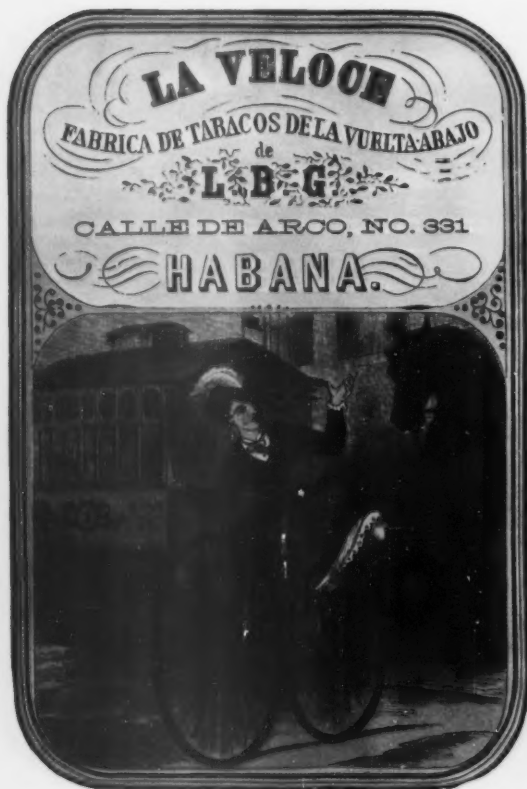
Another craze was introduced in 1869 when the rubber-tired velocipede arrived on the market. Earlier the wheels were of wood with iron rims, which offered such a bumpy ride that they were known as boneshakers. The new velocipede was a great improvement, as men and women, young and old, took to the wheels for a spin in the open air. The most humorous of these labels shows a bewildered lady in city traffic in the path of both a streetcar and a horse.

The first transatlantic yacht race from New York to the Isle of Wight was won by the

American schooner *Henrietta* in 13 days, 21 hours, and 45 minutes in December 1866, an event recorded on several labels showing the proud winner. Light harness racing was a more folksy sport known to a large segment of the rural population. Several labels picture famous horses like Dexter and Hambletonian, the sire of many of America's famous racehorses. Both were immortalized by Currier and Ives.

The entertainment world of New York in the late 1860's had more variety to offer than the programs of today. Entertainers,

singers, and stars of the opera and theater were imported every season from Europe. The discriminating public could enjoy plays and operas in the original German, French, or Italian in addition to English. The foreign language companies presented as many as a hundred different plays in one year. Copyrighted tobacco labels of these years display scenes from some of the most popular productions. In "The Grand Duchess" Lucille Tostée, star of Offenbach's *La Grande Duchesse de Gérolstein*, sings "Voici le tabac," an adaptation of the operetta's popular "Voici le sabre de mon père."



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THE BEST

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THE DUCHESS

GRAND



VOICI LE TABAC DE MON PÈRE!

A. HOEN & CO. S. I.

Registered according to act of Congress in the year 1868 by J. Geemüller & Sons in the Clerk's office of the Dist. Court of Maryland.

✠ A ballet of eight tableaux called *White Fawn* was the source for five different labels of fairyland ballerinas. In contrast is the label inspired by *Fanchon*, another kind of spectacle which remained in the repertory for several decades.

✠ Other labels show the British opera singer Euphrosyne Parepa-Rosa as Norma and scenes from *The Pickwick Papers*, *La Camille*, and *Falstaff*. These sophisticated themes from the entertainment world were

intended to reach the tobacco smoker who preferred "Jerome Park," "Social," and "Grecian Bend," brands whose labels depicted high society. The "Grecian bend," a once-fashionable posture, often exaggerated by the bustle, is demonstrated by the lady who lights her cigar from a gentleman's pipe (see cover). This lighthearted reflection on the fashions of the day shows the return to more prosperous times, when people could devote their attention to amusements and outings.



RANCHON

MANUFACTURED OF THE BEST
QUALITY OF

YUETTA ABAJO TOBACCO

BY

S. L. & CO

According to Act of Congress, A. D. 1865, by S. Lowenthal & Co., in the Clerk's Office of the District Court,
for the Eastern District of Pennsylvania.



By the 1870's there were two schools of tobacco label art: the traditional, reflecting events of the day such as the expansion of the frontier, the last skirmishes with the Indians, the changes brought about by railroads and balloons, the rapid extinction of the buffalo, and the gradual emancipation of women; and the sensual, emphasizing the female figure in a variety of settings, from classical mythology and romantic literature to the exotic Near East and modern West. Technically, the labels were larger and better executed than the earlier ones. More attention was paid to composition; the colors became softer and brighter. And an attempt was made to incorporate the lettering and advertising message into a harmonious whole. In most cases, however, the labels were too cluttered with different pictorial themes to achieve the impact of their modern counterparts. *EB*



Indian maidens were depicted as dark-haired beauties in feathered headdresses strolling along mountain streams or reclining in hammocks amidst ferns and palmettos, idealizations of the noble savage living in blissful innocence beyond the range of the civilized world.

Black Hawk and Red Cloud, chiefs who resisted the advance of the white man on their territories, were popularized in romantic poses in "Wild West" settings. Another timely brand, "Rivals," shows a fierce Indian and a white hunter chasing a buffalo over the open prairie. The "Echo" chewing tobacco label is decorated with the head of a magnificent buffalo, even then in danger of extinction.



BLACK HAWK

97



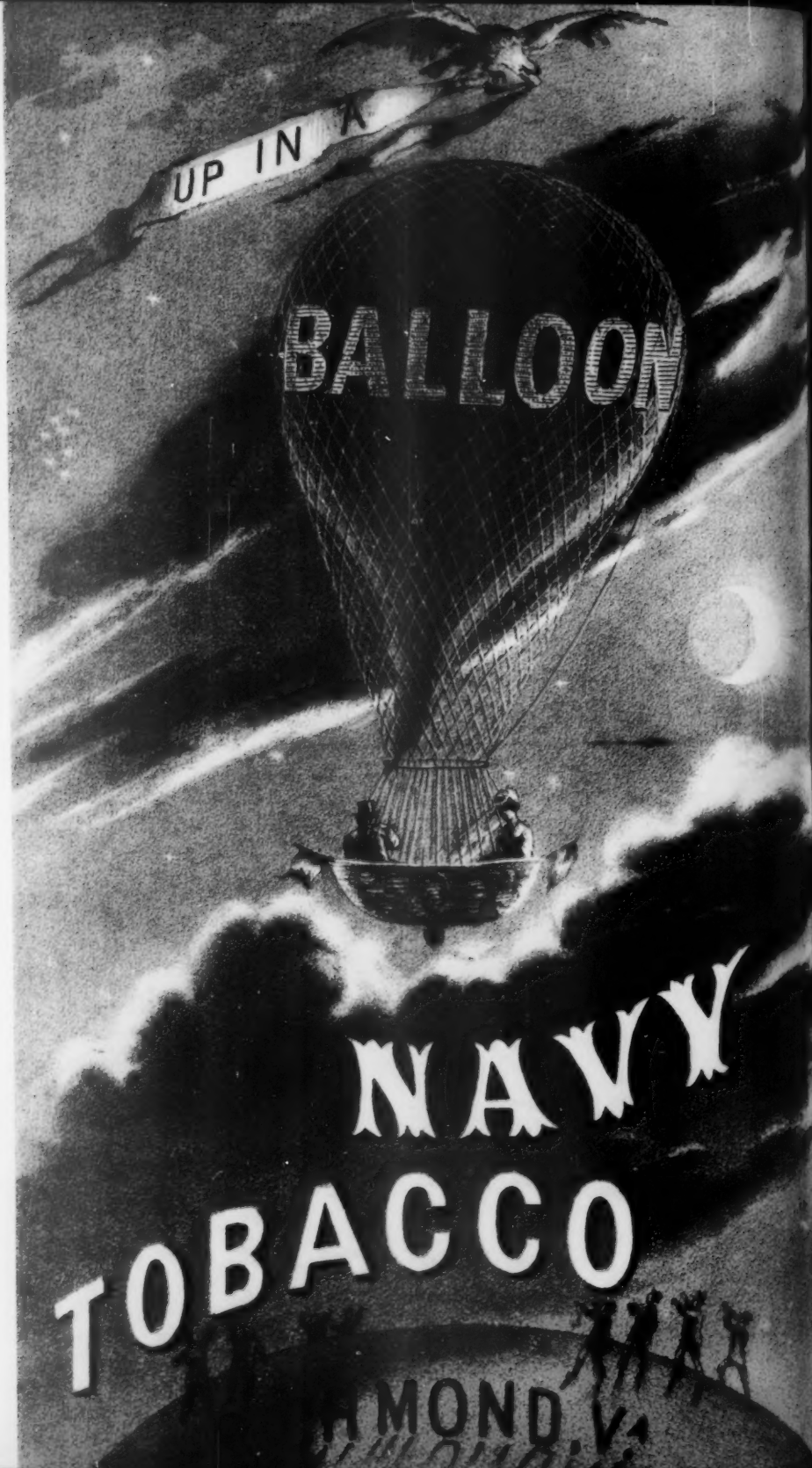
The American Indian was also frequently used in juxtaposition with a turbaned Turk enjoying his waterpipe in a coffee shop. Turkish motifs appeared in tobacco labels when Turkish light tobacco became fashionable in the late 1860's. This coincided with the fad for cigarettes, manufactured from a Turkish-Virginia blend. See illustration, page 76.

UP IN A

BALLOON

NAVY
TOBACCO

ALMOND, VA



CRUSADER



Manufactured only for

THE BUREAU OF LITH. ST. PAUL, MINN. U.S.A.

247 The Turkish themes of harem ladies reclining on soft cushions smoking the hookah or resting by lotus ponds in the moonlight gave the American advertising artist complete liberty to indulge in the most daring flights of imagination. He could safely portray lightly draped, dark-eyed temptresses in rich jewels and gold bangles without being criticized for exceeding the limits of good taste. In contrast are labels like "Crusader," whose portrait was inspired by the Women's Christian Temperance Union, founded in 1874. She is fashionably dressed, but her mission in life is indicated by the women in the background who are preparing to storm a tavern.

248 No novelties of the 1870's escaped the commentary of the tobacco label artist. He showed a balloon rising above the globe and, in another label, the new Brooklyn Bridge, formally opened to traffic 10 years after the label was copyrighted. An unknown artist made a drawing dedicated to the spirit of water in Fountain Square in Cincinnati for the label "Fountain Dew."

WHAT IS IT



£40 The ancient device of using animals dressed as humans to satirize contemporary life was also employed by label designers. "What Is It" may have been a veiled criticism of Darwin's controversial treatise *The Descent of Man*, which was then being earnestly debated by educated men. Another label, "Mule Ear," shows a mule standing on a porch of a southern mansion, in morning robe and cap, examining fresh tobacco leaves brought in from the fields on his estate. This label does not seem to carry any hidden message; it is only a humorous scene of an animal acting like a human.

£41 There are also many labels which are merely pretty, sentimental pictures without any story attached: a farmer pauses in his plowing to enjoy a plug of tobacco, a beautiful maiden dreamily admires a bouquet of forget-me-nots, exquisitely dressed young girls roll hoops in a quiet city street, and impeccably dressed hunters rest in a forest clearing,

But more and more it was the glamor girl who was front and center. Indeed, idealized beautiful women were becoming so important in advertising that artists had to turn to history, myth, romantic literature, and the stage for backgrounds. Two different companies depicted Leda, to whom Zeus appeared



in the guise of a swan. Others used lightly draped ideal female nudes rising from the sea in a mist of pink clouds. "Jennie Hughes," a New York actress, is a less ethereal dream girl. These lithographs of the 1870's with their soft, chalky crayon outlines and delicately applied color testify to the designer's personal touch.



With the 1880's an obvious change took place in the technical as well as the artistic aspects of label art. The surface of the prints became slicker and smoother, acquiring an oily sheen. The illustrations deteriorated to the level of stereotyped cover girls, lacking subject interest and individuality, surrounded by animals and flowers; colors were now bright but garish. The decline of tobacco label art in the late 1880's must be attributed to a vastly greater demand for labels, with handprinting supplanted by mechanical processes and the introduction of new inks and new papers. Manufacturers also

demanded greater speed, which meant that artistic quality had to be sacrificed for faster production. An example of this type of label is "Prosperity," a symbolic figure surrounded by gold medals from trade fairs and an open box of cigars.

After 1890 chromolithographs on labels were gradually replaced by photomechanical reproductions, based on actual photographs of people and places. With the introduction of this new technique the era of tobacco label "art," which saw the modest black-and-white early designs develop into the flamboyant chromolithographs of the 1880's, came to an end.

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Hans Pfitzner

A TRADITIONAL GERMAN COMPOSER

by JON NEWSOM

The composer Hans Pfitzner (1869-1949), though little known elsewhere, was sufficiently esteemed in his native Germany to evoke the following statement from Thomas Mann on the founding of a Hans Pfitzner Society in 1918:

His name shines among the first; fighting Germany cannot think today of its own inner worth without also thinking of the cultural treasure it produced through this mind. . . . The possibility of the highest popularity, for which this tone-poet, perhaps the most national and traditional now living, always held deep hope—has only slowly been realized.¹

When Pfitzner was a student in Frankfurt during the late 1880's and early 1890's, the relative stature of Johannes Brahms and Richard Wagner was still, in some circles—including Frankfurt—the subject of strong partisanship. There, Pfitzner was trained in a school unsympathetic to Wagner's "music of the future." But the distance that separated the two masters' adherents was even then growing smaller, as the Bayreuth Festspielhaus of the once revolutionary Wagner became a rallying point for new conservatives.

By the end of World War I, when the mature Pfitzner enjoyed his greatest popularity, there had appeared leaders of a new futurism that seemed to break far more radically with tradition than had Wagner, and the works of both Wagner and Brahms represented for many the ultimate achievements of 19th-century music.

As a musician and a German, Pfitzner was a cultural heir both of Brahms, the conservative who worked within the conventions of classical tonality and its forms, and of Wagner, the revolutionary who, embracing all arts, composed expansive music-dramas in which tonality and form seem more the products of dramatic structure than of a purely musical system. Among Pfitzner's compositions are five operatic works which reveal the influence of Wagner; but there are also many instrumental pieces which represent the more classical spirit.

Pfitzner was also a cultural heir of Wagner

Jon Newsom is a Reference and Acquisitions Librarian in the Music Division.

the poet and journalist, who expressed himself both in the texts he wrote for his music-dramas and in volumes of prose which, sometimes inconsistent and polemical, became, apart from their intrinsic worth, an important inspiration for German thinkers of the critical years leading to the rise of German fascism. Pfitzner, though by no means a Nazi, was, like Wagner, inclined to express his nationalism and his hatred of what

he considered Jewishness, while he did not reject Jews who embraced German nationalism and supported his music. He also wrote lucidly on a variety of musical subjects, but his views, unlike Wagner's, seemed reactionary to some now better remembered than he. Unlike Wagner too, he wrote candidly and without deliberate equivocation.

But Pfitzner regarded himself as a disciple

Lithograph by Rudolf Josef Kratina of Hans Pfitzner, leading a rehearsal of one of his operas as guest of the Dresden Opera in the spring of 1931. Music Division.



neither of Wagner nor of Brahms, feeling a deeper sympathy with early German romantic composers, including Heinrich Marschner (1795-1861), Carl Maria von Weber (1786-1826)—both known for their operas—and Robert Schumann (1810-56). With Wagner, however, he had in common the experience of having been fascinated by the philosopher of pessimism, Arthur Schopenhauer, whose impact on Wagner is famous.

Wagner discovered Schopenhauer's writings in the midst of composing his monumental *Ring*, and in a mood of frustration (of which his interest in Schopenhauer was a symptom) he interrupted his work. He must have found appealing Schopenhauer's belief that through art, of which music was supposed to be the highest kind, men could free themselves from the futility of human existence. But the philosopher's unequivocal asceticism and his pessimism concerning mankind, whose wretchedness and perpetuation through sexuality and procreation he deplored, were uncharacteristic of the quite equivocal Wagner, who sometimes used Schopenhauer's views under the pretense of embracing them but for whom the role of asceticism was only a pose struck in a life characterized by contradictory gestures. During the interruption in his composition of the *Ring*, Wagner completed two music-dramas: first, the erotic tragedy *Tristan und Isolde*, which he considered a Schopenhauerian work, and then *Die Meistersinger*, in which the spell of the gloomy philosopher seems to have been broken, for its conclusion exhorts both marriage and new art triumphant over stodgy traditions, and it clearly expresses hope for a bright German future. "*Kinder, macht neues*," Wagner is supposed to have advised and challenged the future; and, because his remarks were often not limited to the arts alone, it might have been assumed that he also hoped to kindle the grandest ambitions for the advancement of German culture.

But did Germany's children of the future want something new at all? Both in art and politics, there seems to have been an extraordinary conflict between those who wished to look forward and those who longed for the continuance of real or imaginary traditions. Those who sought the past, among them Pfitzner, may have been closer to the

spirit of Schopenhauer than Wagner. They seem to have felt what Thomas Mann called in his novel *The Magic Mountain* "a sympathy with death."

Shortly after World War I, Mann transcended his narrowly conservative, nationalistic views—seen in the introductory quotation—became the most articulate defender of parliamentary democracy in Germany before the fall of the Weimar Republic, and, during Hitler's regime, represented "good" Germany, an exiled apologist for the Germans who desperately sought to fulfill a sense of national destiny. He wrote an essay, first published in 1919, on Pfitzner's most important work, the "musical-legend" *Palestrina*, based on an imaginary episode in the life of the 16th-century Italian composer.² In this essay we see signs of his early misgivings about the "traditional" art he had so highly praised the year before:

These archaic fifths and fourths, these organ sonorities and church modes—are they nothing but mimicry and historic atmosphere? Are they not also evidence of a spiritual inclination and intellectual disposition in which, I fear, one must recognize the opposite of a politically virtuous inclination and temperament?

Later in the essay he recalls a most interesting encounter:

One summer evening between the second and third performances of *Palestrina* there was conversation on a garden terrace; the subject was a comparison between the work which was on our minds and *Die Meistersinger* as art works and works about artists . . . Pfitzner said: "The difference is most plainly expressed in the closing scenes. At the end of *Die Meistersinger*—a stage full of sunlight, rejoicing crowds, a betrothal, glitter and praise; in my work, *Palestrina*, honored, to be sure—alone in the twilight of his room, beneath the picture of his departed, at the organ, dreaming. The *Meistersingers* are the apotheosis of the new, heralds of the future of life; in *Palestrina*, everything leans to the past; there is a prevailing sympathy with death."

Mann says he was surprised by the words "sympathy with death," because the very phrase was a motivic element in *The Magic Mountain*, the novel he was writing: but he was also struck because it was spoken by the composer of *Palestrina* in a confession of inclinations Mann was to consider not only morbid but politically dangerous. After the publication of that novel, which was a turning point in his intellectual career,

Mann wrote in what was to be his last letter to Pfitzner, dated June 23, 1925:

The character designated the hero of my latest novel [*The Magic Mountain*] is occasionally called "a delicate child of life." All of us artists are delicate children of life, but children of life nonetheless, and—this now pertains to the musician with his romantic license as well as to the literary artist—whoever at a moment such as this in Europe does not take sides with the party of life and the future against fascination with death, would truly be an idle boy.³

Palestrina, a difficult work, expensive to produce, and premiered in Munich during wartime on June 12, 1917, is the only opera for which Pfitzner wrote his own libretto; and the text tells us something of his political views that his music cannot. The second act is really a devastating parody of parliamentary democracy. This is not to say that Pfitzner advocated any other form of government; but as a naive idealist of the lower middle class, himself risen to prominence through art (largely through the patronage of Jews such as Bruno Walter, who championed Pfitzner's works and conducted the premiere of *Palestrina*, and Paul Nikolaus Cossmann, who was his ardent financial supporter), Pfitzner was typical of many Germans in his hatred of democracy, capitalism, liberalism, internationalism, and whatever he thought was destroying German culture. He held to the mystical vision of a national genius of art and science flourishing in a recovered state of harmony that was supposed to have characterized feudal Germany before industrialization. *The Politics of Cultural Despair* is the eloquent title of Fritz Stern's examination of pre-Fascist Germany⁴: that the politics were not those of democracy is in part the results of an antipathy to it by those whose views Pfitzner typifies. In his *Palestrina*, Pfitzner rises above his nationalism but, in the second act, unleashes his hatred of parliamentary government.

In the first act *Palestrina*, old and mourning the death of his wife, tells his friend, Cardinal Borromeo, that failing inspiration prevents him from composing a model setting of the mass at the Pope's command to support the case for the continued use of polyphonic music in the church, a question being weighed by the Council of Trent. The cardinal leaves in anger. At the close of the act, *Palestrina* is visited by angels and the spirits of the great masters of music and, inspired, he

writes his mass as if by dictation in one night, after which he falls asleep, exhausted, at his writing table.

In the second act the composer is not seen. He has been imprisoned, his new mass still undiscovered. The scene is a meeting of the Council of Trent, and the church dignitaries who appear epitomize unsavory political types; their philistine insensitivity to the potential importance of their decision on church music is matched by both their sense of self-importance and their impotence in collective administration; and the particular irony of this act lies in the fact that the work over whose commission they quarrel has already been accomplished by divine inspiration. As their conflicts become irreconcilable, they adjourn, but the curtain does not fall until we have seen the consequences of their example: their servants, following suit, come to blows and are dispersed with gunshots which leave the stage strewn with bodies.

The last act celebrates the triumph of art over politics: the mass has been discovered and sung to the Pope, who remorsefully pays homage to *Palestrina*, "the saviour of music."

In this work Pfitzner not only summarizes his ideas on art and politics but unconsciously foreshadows his reaction to a tragic event in his life: the death of his first wife in 1926, which left him, like his *Palestrina*, unable to compose for several years. He broke his silence in 1929 with a cantata, *Das dunkle Reich*, but it was with the opera *Das Herz* that Pfitzner probably hoped not only to recreate the success of *Palestrina* but to surpass it. The double premiere of *Das Herz* in Berlin and Munich on November 12, 1931, was marred by a dispute between the composer and his collaborators over unauthorized changes the latter had made in the Berlin production, a sign both of the ill will that frequently disrupted Pfitzner's personal dealings and of possible shortcomings in the work at hand that may have been responsible for its ultimate failure, a failure that marked the beginning of the decline in Pfitzner's fortunes. For though he continued to compose, Pfitzner did not fare well under the Nazis. His intractable nature might have made his success as a national cultural hero difficult at any time. (His notoriety as a difficult person was sufficient to warrant notice in a promotional statement on his behalf which appeared in *Die Musik* in De-

cember 1933.) Possibly, too, the intensity and seriousness of his nature, manifest in his usually severe musical scores, may have been less appealing to many than the flamboyance of his rival, Richard Strauss. In any case, Pfitzner not only failed to appeal as an artist to a large audience; in 1934 he personally incurred the wrath of Hermann Göring in a dispute over his pension. The antagonism of the Nazi leaders to Pfitzner may also have been the result of the composer's outspoken objection to the treatment of Jews, among whom he had many friends. Whatever the reason, his pension was withdrawn two years later. At that time, in 1936, his son Paul died; and in 1939 his daughter Agnes committed suicide. The wartime destruction of his homes in Munich and Vienna left him destitute; and in 1944 his son Peter was killed in action.

The recent acquisition by the Library of Congress of 12 letters and five postcards from Pfitzner to the conductor Fritz Stiedry (1883-1968) brings to the Music Division a small but interesting collection of documents relating to the composer. The letters to Stiedry were written over a long period, from 1919, when Pfitzner was at the height of his popularity and artistic activity, to 1948, when he was practically ignored. During this period Stiedry pursued his career in Berlin, where he was a conductor at the Berlin Opera from 1914 to 1923; in Vienna at the Volksooper, which he led from 1923 to 1925; and again, after years of travel, in Berlin, where he led the Municipal Opera from 1929 to 1933, when Hitler was elected to power. Stiedry spent the rest of his life conducting in the United States. He appears to have been a useful intermediary between Pfitzner and Max von Schillings (1868-1933), composer, conductor, and intendant of the Berlin State Opera from 1919 to 1925. The letters document some of Pfitzner's difficulties in having his works performed in Berlin, difficulties which reached a critical point at the premiere of *Das Herz* mentioned earlier. In the earlier letters, most of them written in a flowing hand, apparently hastily, he is chiefly concerned with performances of his operas; the last, written in a painstakingly legible hand, are concerned with the difficulties of providing the necessities of life.

The first letter, written from Pfitzner's home in Munich and dated April 8, 1919, consists of eight pages in what Pfitzner calls "telegram-style"

on the proposed production of *Palestrina* in Berlin, its belated premiere there to be directed by Stiedry. Pfitzner, an experienced conductor and director himself, understood the abilities of the singers available—some were exceptional—and his remarks here have the authority both of the composer certain of his intentions and the practical musician capable of realizing those intentions. First, singers for every part are carefully considered. Although Joseph Mann had been designated for the tenor role of *Palestrina*, Pfitzner writes that he has arranged to have Ernst Kraus, whom he recently heard as Siegmund, sing the role alternately with Mann. Kraus is qualified by the beauty of his legato, by his wide range, and, Pfitzner writes, "above all he is qualified in something that is not unimportant: the figure itself (naturally I don't mean outwardly), the temperament, of the person."

Als Sänger dieser Rolle [*Palestrina*] war von uns Herr Mann bestimmt; nun habe ich mit Ernst Kraus (mir befreundet) den ich als Siegmund neulich hörte, abgemacht, ihn die Rolle alternierend mit Herr Mann singen zu lassen: Ich möchte gern daran festhalten, denn Kraus hat mich überrascht durch die Schönheit seines legato, was er nie so hatte, besonders Mittellage; die *Tiefe*, die in dieser Partie wichtig ist, hat er auch, und die Höhe wird er bringen—er selbst bangt sich nicht davor. Vor allem aber bringt er etwas mit, was nicht das unwichtigsten ist: die Figur (ich meine natürlich nicht äusserlich) selbst, die Natur, den Menschen.

As for the man to perform the less important part of *Avosmediano*, the baritone role, Pfitzner rejected the proposal absolutely. "Not because the good Baptist Hoffmann, who is quite sympathetic to me as a man and artist, would not be agreeable," he wrote, "but he is one of the worst for canceling an engagement I know; I'll never forget how, out of sheer *laziness*, he called off a song recital with me a few days beforehand: *let that be a lesson!* Moreover, he is hardly suitable as the gloomy, haggard, tall fellow I imagine *Avosmediano*."

Dies [*Avosmediano*] ist der einzige Vorschlag, den ich absolut *ablehnen* möchte. Nicht, weil mir der gute, mir als Mensch und Künstler gleich sympathische Baptist Hoffmann nicht recht wäre; aber—er ist einer der grössten Absager, die ich kenne; ich vergesse nie, wie er mir aus purer *Faulheit* einen Liederabend wenige

三

16/ des 3. Augustus! Hier bei der morgigen Befruchtung 3 gute Minnen,
sogar Bogen sein. In Wien sind die Reissens der ersten Frucht zu den
Reifen der gesungenen der ersten Lignen flüchtig, ist aber nicht
und so. Auf nicht absetzen!"
Womit die Befruchtung fertig. Auf vorkommenden der Befruchtung selbst.

Palafra - Kous, Kame.
Noragori - Kous.

Novgorod - Kents.

Borroneo - Robner - Amster.

Pepos — Künzler — de Saunde (2)

Marshall - Knicker.

Dadaji - Sommer.

~~High~~ Scores - 400k.

Morone - Solenostomus?

Lane - Kabich.

Lothringen - Brongest.

Arosmeriano - de Saude (?)

Gen. & Brig - 47 Mass.

Therapies - Lichen

Albino - - - - -

Fill -

Eupregia - Lézards.

3 Engl 2 2 2

5 Repellentes 2 2 2 2 2

9 Meister. 7.

mit der Abdin ??

Dear A. is very warm!

17/ Abt. 1: Joseph Baron. Im sein Mantel } mit seiner Reihe sein.
stehend mit seiner Reihe.

Was paßt das Knippen-Ineinander ab oder zuvor? Das ist die Kunst der
Abdrehen zu sein, die alle Menschen.

Min. Dr. Robson. Ich bin dafür, den 28. Sept. festzusetzen. (Sonntag)
Wahl, wann ja eine Abstimmung eintritt, ist auch die

Tage vorher absagte; davon soll man lernen! Auch eignet er sich gar nicht für den finsternen, hagern, langen Kerl, wie ich mir den A. denken.

The last part of the letter is concerned with elaborate plans—including detailed schedules—for rehearsals to take place during the coming September.

The next letter was written in Berlin on September 6 of the same year, evidently to patch up a quarrel between the composer and Stiedry over rehearsals. Pfitzner begs Stiedry not to let his "angry typewritten letter" stand between them; "let it be quickly consumed by fire, not slowly by time!" That the letter is not with the others suggests that the conductor complied with the request.

Zwischen uns steht immer noch der böse Schreibmaschinenbrief, über den wir uns noch unterhalten wollten; ich bitte Sie aber: lassen Sie die Flammen rasch, und nicht die Zeit langsam fressen! Es war wirklich nicht so gemeint.

Although the Berlin performance of *Palestrina* took place on October 11, 1919, it is not mentioned in the third letter, written in Munich on January 23, 1920. Pfitzner is still concerned that Stiedry may feel he lacks Pfitzner's good will, and he promises to discuss matters directly when he visits Berlin again on February 3.

It is not certain which letter follows next. Because some dated letters were received by the Library in envelopes whose postmarks show they originally belonged with other letters, it is not possible to assume the date of an undated letter from the postmark (or other evidence) on the envelope in which it is now found. However, the contents of an undated letter found in an envelope bearing the postmark May 28, 1920, make that date plausible. This letter, together with another dated June 27 of the same year, shows Pfitzner in a bad humor and reveals his bitterness over his treatment in Berlin. His view that his works had suffered there from neglect, hostility, and bad performances is not without basis. The Berlin performance in 1900 of his first opera, *Der Arme Heinrich* (completed in 1896), had received disastrous reviews, with the result that Pfitzner was virtually ignored there until the

1919 performance of *Palestrina*. Here is the first sign in the letters to Stiedry of Pfitzner's wounded feelings and his particular grudge against Berlin.

Es ist—wenn auch wahrscheinlich nutzlos und überflüssig—so doch erklärlich, wenn ich von Zeit zu Zeit einen Laut von mir gebe, um zu zeigen dass ich noch auf der Welt bin, und weiss, wie man mich in Berlin behandelt.

The first part of the year 1920 had been frustrating for Pfitzner. Before the First World War, he had directed the opera in Strassburg and now sought, unsuccessfully, to find a similar position in Germany. In June, he finally accepted an appointment at the Preussische Akademie der Künste in Berlin, where he was to succeed Richard Strauss as director of the master class in composition. He did this grudgingly, as can be seen in his letter of June 27: "And so your wish and advice has become fact, and I have accepted Berlin, with a joyful and a tearful eye. The joy is not especially joyful, and it is only inasmuch as I now really have a feasible position; but the tear is very tearful, since the position which I want for myself, deserve, and which would be appropriate to me and my temperament, inclination, and calling, does not exist for me in dear Germany as matters now stand."

Nun ist also Ihr Wunsch und Rat Tatsache geworden, und ich habe für Berlin zugesagt, mit einem heitren, einem nasser Auge. Das heitre ist nicht besonders heiter, und ist es nur insofern ich nun überhaupt eine mir mögliche Stellung habe; dass nasse aber ist sehr nass, da die Stellung wie ich Sie mir wünsche, verdiene und mir und meiner Natur, Neigung & Beruf entsprechend wäre, nun einmal im lieben Deutschland nicht für mich da ist.

The next two letters, dated September 23 and October 4, 1921, are typewritten. Pfitzner is trying to arrange performances of *Das Christelflein* (composed in 1906, revised in 1917) and *Palestrina* in Berlin. In the first he reports that his letter to Schillings has gone unanswered for three weeks, and he asks Stiedry to intercede. By October 4, however, Schillings has written. Pfitzner, unhappy with the arrangements, tells Stiedry he would rather have no performance than a bad one: "To be sure, it's another matter if the work were to be given 10 or 12 times a year. Then,

Pfitzner proposes cast for the premiere of *Palestrina*. Reproductions and excerpts of letters used by permission.

Hier für Dr. Biedig.

Ihre Kritik an Genies ist ein - selten, und ich hoffe, daß Sie,
 ein an Folgen und Respekt, eine solche nach Natur
 geübte Schrift ist; und so werden Sie auch wohl in der Zukunft
 Ihres Biegers kommen.

Es ist - wenn auch unvollständig und unvollständig - so sehr
 willkürlich, wenn ich an fast zu fast einen Punkt von uns geht, um
 zu zeigen, daß ich mich auf die Welt bin, und weiß, daß man mich
 in Berlin befand. Putschismus liegt offenbar in dessen Wille,
 der sich und unbestimmt, Christenheit wird zusammengefaßt,
 und mit einem Hauch zusammen einmal gegeben (man muß es auch in
 Zukunft aufgeben, die mich dagegen entscheidet!) um Kopf "für mich" keine
 Rede. Die einzige Zusammenfassung ist mich zu, daß es schließlich mich zu
 am Kopf ist, denn ich stelle mir die Aufschreibung mit einer Befreiung
 und einer Regie vor, dann ist das ganze Buchwerk vorzulegen.
 Willkürlich auch ist das jetzige Berlin was Bismarck nicht war.
 Das ist so meine Meinung - selten zu Gnade!

Und herzlich grüßen Sie!

Klaus Pfitzner

after all, it can just get by with an inferior cast. However, if it appears only 4 or 5 times, one must see something more of the quality. I have made Schillings understand this." Pfitzner's weighing of quality and quantity here is curious. He perhaps was being ironic.

Wie Sie sehen, komme ich immermehr auf Ihren Standpunkt, dass ich lieber gar keine als eine schlechte Aufführung des *Palestrina* will. Freilich ist ein anderes, wenn das Werk im Jahr 10 bis 12 Mal gegeben würde. Dann kann es schliesslich einmal mit einer minderen Besetzung passieren. Jedoch, wenn es nur 4 bis 5 Mal erscheint, so muss man schon etwas mehr auf die Qualität sehen. Dies habe ich Schillings zu verstehen gegeben.

After two short postcards (December 21, 1921, and April 18, 1922), Pfitzner resumes his correspondence over the question of his Berlin performances and deteriorating relationship with Schillings. We have two typed letters dated July 20, 1922, and July 14, 1923. An undated, handwritten letter seems by its contents to belong chronologically between these two.

On July 20, 1922, Pfitzner again asks Stiedry to intercede for him, this time regarding a performance in Berlin of his second opera, *Die Rose vom Liebesgarten* (completed in 1900). He says he has not written Schillings because he thinks it would be to no avail. Stiedry may have replied that a letter from Pfitzner to Schillings would be necessary, since Pfitzner's undated letter, which seems to follow that of July 20, reveals that Pfitzner has written Schillings. In this most bitter of the letters to Stiedry, Pfitzner summarizes what he assumes Stiedry already knows: that Schillings rejected *Die Rose* and its performance has been abandoned in Berlin. In referring to Schillings' preference for two operas to his *Die Rose*: Erich Korngold's *Die tote Stadt* and Leoš Janáček's *Jenufa*, he writes, "It is really very honorable for the intendant of the former Berlin Hofoper to give preference to a Jewish and a Czech (!) work before mine at this time. But I abandon Berlin! It is Alexandria, Babylon, and the "State" Theater the great whore."

Es ist wirklich sehr ehrenvoll für den Intendanten der ehemaligen Berliner Hofoper, in dieser Zeit ein jüdisches u. ein czechisches (!) Werk den meinigen vorzuziehen. Aber ich gebe Berlin auf! Es ist Alex-

andria, Babylon, u. das "Staats"-Theater die grosse Hure.

Pfitzner's sensitivity is understandable as more than the result of wounded personal pride: his sense of outrage at Germany's fate after the First World War lasted until his death and, after the Second World War, he cited Germany's subjugation following its defeat in the First as a cause of the disasters wrought by Hitler's regime. This letter, in which Pfitzner says he will give up his attempt to find favor in Berlin, apparently marks the end of his working relationship with Stiedry, at least insofar as it is documented by their letters. The remaining correspondence testifies to a friendship which prevailed in spite of Pfitzner's unpleasant experiences in Berlin.

The letter of July 14, 1923, is addressed to an ailing Stiedry at the Sanatorium Bühlerhöhe. Schillings, who was, in fact, to give the Berlin premiere of *Die Rose* on December 15, 1924, had apparently asked Stiedry to attempt to pacify Pfitzner. Pfitzner says he has been too busy to answer Stiedry promptly. Moreover, as far as he is concerned, he will have nothing more to do with Berlin, but Schillings, if he wishes to set matters right, can approach Pfitzner's publisher, Max Brockhaus. Pfitzner closes this otherwise cold reply with an inquiry about his correspondent's well-being. There are no letters mentioning the actual Berlin premiere of *Die Rose*, but we know that Pfitzner was not satisfied with it.

Two postcards, one written on August 15, 1923, the other in 1932, are the only records we have of Pfitzner's relationship with Stiedry until the latter, writing from the United States after the Second World War, received an answer from Pfitzner in a home for the aged in Munich. The letter, bearing the conspicuous heading in Pfitzner's hand "Altersheim Ramersdorf," is dated January 11, 1947. He begins: "It was a surprise and a joy to receive a letter from you once again, after the world, in the meantime, has so frightfully shaken back and forth; to know that, after all, something human remains gives one such a comforting feeling. Oh, I recall the beautiful Palestrina-time in Berlin, and the unforgettable friend [Willy] Levin, who drew such a fine circle of friends about him, and whose name signified a refuge for mind and art! And now——."

there?) But the piece has not been performed, he adds, in the American Zone. He closes with the pathetic note that he has not yet received Stiedry's CARE package but is confident that it will come. In a postcard of June 20, 1948, Pfitzner thanks Stiedry for the package and a gift of money.

With the Pfitzner-Stiedry correspondence, the Library acquired two additional letters to Stiedry which concern Pfitzner's trial as a collaborator with the Nazis and the verdict clearing him of charges on March 31, 1948. It appears that Stiedry had offered testimony to assist Pfitzner. Whether Pfitzner knew of this is not clear; he says nothing of it in his card of June 20, and this is the last of the correspondence.

Early in 1949, Pfitzner and his second wife—he had remarried in 1939—were able to move to Vienna through the efforts of the Vienna Philharmonic. On March 18, two days after

leaving for Frankfurt for the celebration of his 80th birthday, he suffered a stroke. He recovered and, again through the assistance of the Vienna Philharmonic, settled in Salzburg, where he died on May 22 of the same year. As he wished, he was buried in Vienna.

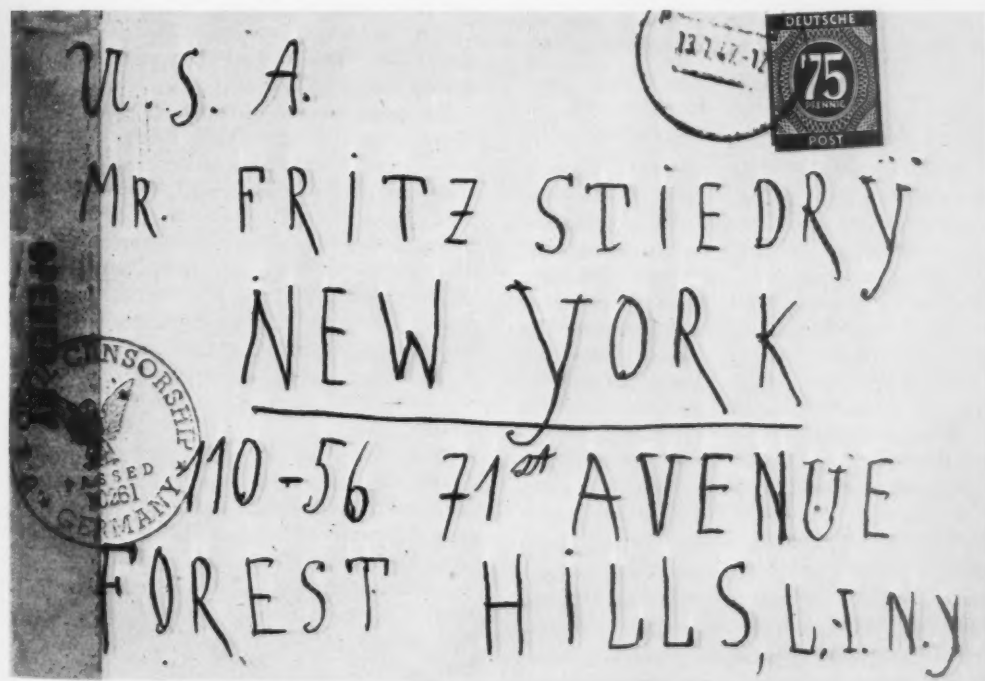
NOTES

¹ Quoted in Walter Abendroth, *Hans Pfitzner* (München, Langen-Müller, 1935), p. 222-223. This and other passages quoted in this article have been translated from the German by the author.

² Thomas Mann, *Pfitzner's Palestrina* (Berlin, S. Fischer Verlag, 1919. 29 p.). Sonderdruck aus den "Betrachtungen eines Unpolitischen."

³ Quoted in Abendroth, *Hans Pfitzner*, p. 262-263.

⁴ Fritz Stern, *The Politics of Cultural Despair; a Study in the Rise of Germanic Ideology* (Berkeley, University of California Press, 1961. 367 p.).



Writing from an old people's home on January 11, 1947, Pfitzner recalls the "beautiful Palestrina-time in Berlin" and inveighs against the "conquerors" who have refused permission for his music to be played or for him to conduct or perform. The envelope bears evidence that the letter was passed by the civil censor.

OF COPYRIGHT, MEN & AN

by John Y. Cole

To the public, the importance . . . of having a central depot, where all products of the American mind may be gathered, year by year, and preserved for reference, is very great. The interest with which those in 1950 may consult this library . . . can only be fully and rightly estimated by the historian and the bibliographer.

—Charles Coffin Jewett
*Annual Report of the Board of Regents
of the Smithsonian Institution, 1849*

In the United States the practice of depositing, in a single location, copies of items registered for copyright protection has served two purposes: deposit for record, whereby the item, or deposit, is kept as legal evidence of copyright registration; and deposit for use, whereby it is kept for library use and the enrichment of library collections. The history of the national library is firmly linked to the second purpose, as copyright deposit for use was the method by which a national collection of books and materials comprehensively reflecting the American national life was accumulated.

The foundation of British and American copyright law is the Statute of Anne (1710), which included a provision for sending copyright deposits to several British libraries. Copyright deposits were first received by the British Museum Library in 1814 and played an important role in that institution's development into a national library during the 19th century. When Anthony

Panizzi became Keeper of Printed Books in 1837, the British Museum ranked seventh in size among great European libraries. Because of his strict enforcement of the copyright law, the size of the Library had nearly doubled by 1852, and by 1859 the British Museum had risen to second place among Europe's libraries.¹

The establishment of copyright deposit as an effective method of building library collections was of greater importance to the development of a national library in the United States than it was in England. The first U.S. law providing for the enrichment of library collections through copyright deposit was passed in 1846 but was largely ineffective. It was not until the copyright laws of 1865 and 1870² were put into effect that the concept of deposit for use became a reality. And the history of the development of a national library in the United States followed the same course.

Two American librarians, Charles Coffin Jewett, Librarian of the Smithsonian Institution from 1847 to 1854, and Ainsworth Rand Spofford, Librarian of Congress from 1865 to 1897, stood alone in recognizing the value of copyright deposits to their institutions and to the development of a national library in the United States. For a brief period it appeared that Jewett's Smithsonian library might someday be a national library, but at the close of the Civil War the Library of Congress, under Spofford's direction, assumed the national role. At the turn of the century the Library of Congress was recognized

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A NATIONAL LIBRARY

The Library of Congress when it was located in the Capitol Building, depicted by W. Bengough for Harper's Weekly, February 27, 1897. Standing at the right is Ainsworth R. Spofford, Librarian of Congress, whose 15-year campaign for space finally culminated in a new building to house the national collection.



as America's national library. When it occupied its magnificent new building in 1897, it was distinguished by the unsurpassed size and scope of its collections relating to American national life, which were overwhelmingly the result of the copyright law.

In the United States the concept of copyright deposit for library use was enacted into State law at an early date. A Massachusetts law of 1783 provided that one copy of every book copyrighted in the State be forwarded "to the library of the University of Cambridge [Harvard] for the use of said University." However, the first Federal copyright law, passed May 31, 1790, did not provide for deposit for library use, even though the concept of deposit for record was implicit: as legal evidence of copyright, a single copy of the registered book, map, or chart was to be forwarded directly to the Secretary of State in Washington within six months of publication. The copyright amendment of April 29, 1802, added designs, engravings, and etchings to the list of items protected by copyright, but it did not affect the deposit requirements.

The act of February 3, 1831, the first general revision of U.S. copyright law, provided for the protection of musical compositions for the first time and changed the deposit procedure: copies were to be deposited with the clerk of the U.S. district court, who would forward them to the Secretary of State within a year, along with a "certified list of all such records of copyright." The emphasis on deposit as the legal record of copyright was further accentuated in 1834 when, in *Wheaton v. Peters* (8 Peters 591), the Supreme Court ruled that the deposit of a record copy was essential for the validity of the copyright.

By 1837 there was a change in the intellectual climate in the United States which soon led to a renewed, if passive, interest in copyright deposit for library use. Considerable interest had developed among New England scholars and literary men in the need for an American "national literature," and the need for a national library was frequently mentioned at the same time. This new national self-consciousness was stimulated by an increased interest in national history, the desire to "free" American scholars from dependence upon European literature and libraries, and a growing awareness of the inadequacy of Ameri-

can libraries. Many New England intellectuals, including Edward Everett and George Ticknor, both instrumental in the founding of the Boston Public Library, linked the accumulation of large libraries directly to the development of a national literature. Their views were echoed by a writer in *The American Almanac and Repository of Useful Knowledge for the Year 1837*, who also noted the desirability of government support, as the formation of several large libraries "under the patronage and direction of the government . . . would afford the most important aliment to American literature, which might soon be expected to manifest a growth more vigorous than hitherto witnessed."³

The need for a large accumulation of books in an American national library was frequently expressed in the *North American Review*, the prestigious intellectual journal, published in Boston. In an extended article on libraries in the July 1837 issue, historian George W. Greene, writing from his position as U.S. consul in Rome, urged a concentrated effort to build a national library which would "render the American student nearly independent of the vast collections of European libraries." He advocated enlarging the Library of Congress into the national library.

But the Library of Congress was a meager place in 1837. The *American Almanac*, while listing it as the "National" library, ranked its collection of 24,500 volumes in fifth place among American libraries, behind the collections of the Library Company of Philadelphia, Harvard, the Boston Athenaeum, and the New York Society Library. Congress regarded the Library of Congress as only a small legislative library and by the late 1830's was turning its attention toward the development of another Washington institution.

In 1838 the half million dollars bequeathed to the United States by Englishman James Smithson for "an establishment for the increase and diffusion of knowledge among men" was paid into the U.S. Treasury, and Congressional debate on how best to spend the money intensified. Smithson's gift had not been an easy one for the United States to accept—John C. Calhoun felt, for example, it was "beneath the dignity of the country to accept such gifts from foreigners"—and it was even more difficult for Congress to agree on the type of "establishment" Smithson

had in mind. An agricultural experiment station, a national university, an institute for scientific research, a museum of natural history, and a national library were among the proposed establishments. Rufus Choate, a book-loving Whig lawyer from Massachusetts, elected to the Senate in 1841 to fill the vacancy created by the resignation of Daniel Webster, led the national library advocates in the Smithsonian debate. In a heroic Senate speech on January 8, 1845, a speech which a writer in the *North American Review* claimed would "render more memorable the day on which it was delivered than that gallant military achievement of which it is the anniversary" (the Battle of New Orleans), Choate urged devoting the largest part of the Smithsonian bequest to the establishment of a national library:⁴

"does not the whole history of civilization concur to declare that a various and ample library is one of the surest, most constant, most permanent, and most economical instrumentalities to increase and diffuse knowledge? There it would be—durable as liberty, durable as the Union; a vast storehouse, a vast treasury."

Choate, chairman of the Joint Committee on the Library, the governing committee for the Library of Congress, felt the small annual expenditure Congress allowed for that Library could never "enable it to fulfill the functions of a truly great and general public library of science, literature, and art."

Representative George P. Marsh of Vermont, Choate's supporter in the House of Representatives during the Smithsonian debates and a fellow committee member, attacked those who felt a grand accumulation of knowledge in the form of a national library was not a noble purpose: "It is an error to suppose that the accumulations of the stores of existing learning, the amassing of the records of intellectual action, does not tend also to increase knowledge. What is there new in the material world, except by extraction or combination?" Marsh also insisted that the American national library, when established at the Smithsonian, be as comprehensive as possible, since it had to sustain "a people descended from men of every clime, and blood, and language."⁵

Choate, Marsh, and most advocates of a national library did not view copyright deposit as an important means of obtaining the necessary

books, or "accumulations." Greene, in his 1837 *North American Review* article, had proposed that all American historical societies regularly transmit their published volumes to the Library of Congress but did not mention copyright deposit. Instead, immediate large annual appropriations appeared to these men to be the only way to acquire books on the scale intended, particularly if the United States were ever to rival the 700,000 volumes in the Bibliothèque Nationale or even the 300,000-volume library of the University of Göttingen, which Marsh claimed was "the most useful of all for the purposes of general scholarship."

Yet the act of August 10, 1846, which established the Smithsonian Institution, contained the first Federal provision for the use of copyright deposits to enrich American libraries. According to section 10, both the Smithsonian Institution and the Library of Congress were to receive one copy of each copyrighted article within three months of publication "for the use of said libraries." This provision was introduced by Senator Stephen A. Douglas of Illinois and was apparently accepted without debate.

Copyright deposit was clearly considered supplementary to the acquisition of books through purchase, for there were no enforcement provisions in section 10. As the deposit of copies at the Smithsonian and Library of Congress did not appear necessary for the validity of the copyright and the institutions had no legal power to claim delinquent deposits, the law was eventually ignored by most publishers and authors. The Library of Congress was probably included with the Smithsonian as a corecipient of the deposits because Choate and Marsh, along with Senator James A. Pearce of Maryland and Representative Benjamin Tappan of Ohio, other principals in the Smithsonian national library debate, were all members of the Joint Committee on the Library. None of them, however, had any ambitions for the Library of Congress as a national library.⁶

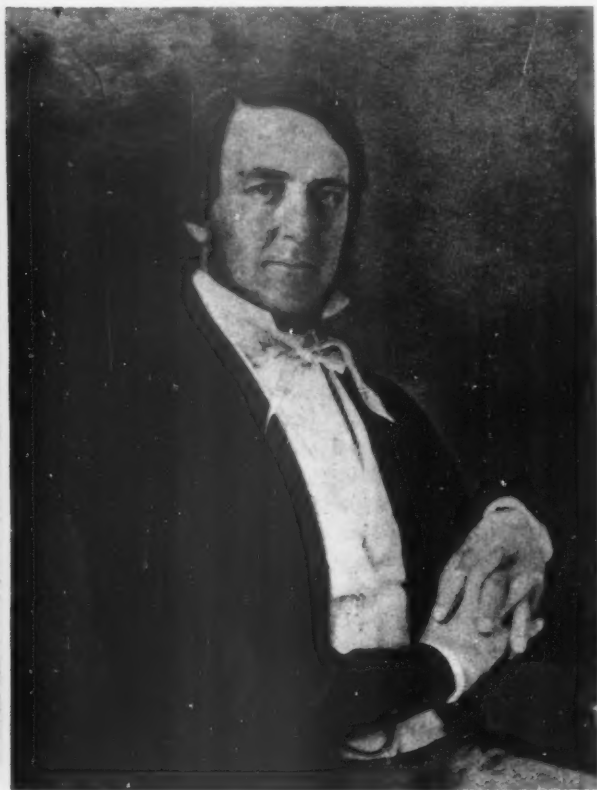
In spite of its obvious flaws, section 10 of the 1846 act was the first legislative recognition of the value of copyright deposits to American libraries since the Massachusetts law of 1783 and was an important step in the development of a national library in the United States. Although the act was a compromise among the various

schemes proposed for the Smithsonian, it helped keep the national library plan alive through its stipulation that an appropriation "not exceeding an average of twenty-five thousand dollars annually" should be made to develop a library "composed of valuable works pertaining to all departments of human knowledge."

At the Smithsonian, Joseph Henry and Charles Coffin Jewett

The chances that the Smithsonian might grow into a national library were enhanced by the appointment of Charles Coffin Jewett, the prominent librarian of Brown University, to the post of

Charles Coffin Jewett, Librarian of the Smithsonian Institution, whose efforts to turn the Smithsonian into the national library were defeated by Joseph Henry. Prints and Photographs Division.



Assistant Secretary in Charge of the Library. Professor Jewett was selected for the position by the national library proponents on the Smithsonian Board of Regents, including Rufus Choate, Jewett's fellow New Englander and strongest supporter. The newly appointed Secretary of the Smithsonian, Joseph Henry, professor of physics at Princeton, accepted the Regents' recommendation and Jewett was appointed. Although Henry had no objection to Jewett, admitting he could not think of any other possible candidates, he recognized that agreement between himself and Jewett concerning the Smithsonian was necessary and should be achieved immediately. Prophetically, on March 23, 1847, Secretary Henry warned his new assistant, "we have embarked together on a perilous voyage and unless the ship is managed with caution and the officers are of the same mind and determined to pull together, we shall be in danger of shipwreck."¹

As librarian and professor of modern languages and literature at Brown, Jewett had spent over two years in France, Italy, Germany, and England acquiring books, visiting libraries and librarians, and studying languages. In England he met and formed a strong friendship with Anthony Panizzi, then Keeper of Printed Books at the British Museum, and later Principal Librarian. Jewett spent months observing the operations and admiring the collections of the great foreign libraries and frequently contrasted their riches to the poverty of American libraries. Once at the Smithsonian, he set out to correct this deficiency by forging that institution into a strong national library and bibliographic center, convinced that Congress shared his wish.

Secretary Henry, despite Congressional authorization for a large Smithsonian library, definitely did not share Jewett's national library views. The foremost American scientist of his day, Henry insisted upon a limited library designed solely to support what he, as Secretary, viewed as the true purpose of the Smithsonian: the increase of knowledge by scientific research and the subsequent diffusion of this knowledge through publication. In its first years, however, the ultimate direction which the Smithsonian would take was not clear, and an uneasy peace prevailed between the strong-willed Secretary and his ambitious librarian.²

Late in the autumn of 1847 Jewett expressed his concern to Henry over the failure of the 1846 act to provide for strict enforcement of the copyright deposit requirements. The next spring, as most publishers were still not forwarding the required copies to the Smithsonian or the Library of Congress, he reemphasized the need for enforcement provisions:⁹

if it be considered just & expedient to require three copies of every book, let the delivery of them be made obligatory & essential to the securing of a valid title. I have always thought that at least *two* copies should be required, because there is always danger of losing one by fire or otherwise. One of these copies should be kept in a safe depository, from which it *should never be taken*, except by order of a Court of Law.

Charles Coffin Jewett was the first American librarian to recognize and acclaim the potential value of copyright deposits to the development of an American national library. In his 1849 annual report he explained why a complete copyright collection was necessary:

In coming years, the collection would form a documentary history of American letters, science, and art. It is greatly to be desired, however, that the collection should be complete, without a single omission. We wish for every book, every pamphlet, every printed or engraved production, however apparently insignificant. Who can tell what may be important in future centuries?

The keystone of Jewett's national library plan was to be a centralized cataloging system for U.S. libraries, based on the distribution of catalog entries produced at the Smithsonian from stereotype plates. Other libraries could use the plates in producing their own catalogs and would prepare catalog entries and plates for items not in the Smithsonian catalog. To eliminate the duplication of cataloging effort and to merge, in effect, the separate library catalogs, Jewett proposed the use of uniform cataloging rules as a necessary component in his national bibliographic system. He also published a list of copyright deposits received at the Smithsonian through 1850 in two appendixes to the 1850 annual report.¹⁰

The success of Jewett's national library plans depended on the accumulation of a comprehensive collection at the Smithsonian, which was not possible without enforcement provisions in the copyright law. Even though Jewett claimed



Joseph Henry, Secretary of the Smithsonian Institution when its library was transferred to the Library of Congress in 1866. Prints and Photographs Division.

the ruling was not valid, he was disturbed by the decision of the New York District Court in *Jollie v. Jacques* (1 Blatchford 618) in 1850 that the deposit of copies at the Smithsonian and the Library of Congress was not essential to the validity of the copyright.

According to Jewett's statistics in his 1850 annual report, only 15 percent of the books and pamphlets in the Smithsonian library had been obtained through the copyright law. As an appendix to the report, the Smithsonian published Jewett's *Notices of Public Libraries in the United States of America*, perhaps the best evidence of its librarian's national bibliographic activities. A pioneering work, the *Notices* contained historical and statistical information concerning more than 900 libraries. Jewett found that Harvard, with its 84,200 volumes, had the largest library collection in the United States, followed by the Library Company of Philadelphia, Yale, and then the Boston Athenaeum and the Library of

Congress, both with approximately 50,000 volumes apiece. The copyright library in the State Department, recipient of deposits for record since 1790, numbered only 10,000 volumes, and the Smithsonian library a mere 6,000.¹¹

The first half of the decade of the 1850's witnessed a surge of library activity in the United States; among other events, the first national librarians' conference was held in 1853, and New York's Astor Library and the Boston Public Library opened in 1854. But Charles Coffin Jewett and his plans for a national library at the Smithsonian created the most excitement. The *North American Review* proclaimed: "We must have a large national library . . . the Smithsonian Institution affords one of the most favorable opportunities that was ever offered in any country for the establishment of such a library." *Norton's Literary Gazette*, leading publishing and literary journal of the day, took special note of the Smithsonian in a February 1852 issue and expressed great hope for its future: "The Library has been commenced; and although the funds have not been available for its rapid growth, it is destined, we hope, to meet that great want of American scholarship, a National Library for reference and research."

In its only mention of the copyright law, *Norton's* scolded publishers for not depositing copies but, like the *North American Review*, it did not suggest copyright deposit as a method of developing the national library which each journal was promoting. Generally, the writers in the *North American Review* were concerned only with the desired result, a grandiose national library which would put Europe to shame, while *Norton's* viewed copyright deposit from the standpoint of the publisher: deposit was the best possible advertisement he could have.¹²

In his 1851 annual report, Jewett complained at length about the copyright situation, estimating that the Smithsonian received as deposits less than half of the works annually copyrighted in the United States. Again pleading for enforcement provisions, he suggested a reduction in the number of copies required for deposit. While he could not say "whether or not the deposit is desired by the guardians of the Library of Congress," if the deposit requirement were ever reduced to one copy, he felt it "could be most

properly placed in the library of the Smithsonian Institution."

By 1851, however, relations between Jewett and Henry were deteriorating. Henry was becoming more adamant in insisting that the Smithsonian library would not absorb more than a limited share of the annual budget, and the outspoken Jewett was equally determined to gain greater financial support in order to carry out his national library plans; each stated his case in separate annual reports with increasing determination, and each rallied his supporters on the Board of Regents. Henry was never opposed to the idea of a national library per se, viewing the idea, in fact, with some favor; however, he was absolutely opposed to the Smithsonian Institution's becoming that national library. He felt the Government should establish and maintain a national library in another institution and even looked to the Library of Congress as a foundation "for a collection of books worthy of a Government whose perpetuity principally depends upon the intelligence of its people." In the same 1851 report he clearly warned Jewett, "The idea ought never to be entertained that the portion of the limited income of the Smithsonian fund which can be devoted to the purchase of books will ever be sufficient to meet the wants of the American scholar."

Jewett completely ignored Henry and increased his own propaganda activities. In his 1853 report he reaffirmed his goal: "There ought, therefore, to be in every country one complete collection of everything published—one library where everything printed should be garnered up, treated as of some importance."

In 1853 Jewett was the most eminent librarian in the land, and it was only natural that he should play a central role in the first librarians' conference in the United States, held in New York City from September 15 to 17. The conference was conceived and organized by Charles B. Norton, a New York bookseller and the publisher of *Norton's Literary Gazette*. Attended by over 80 delegates representing 47 different libraries in the United States, the conference itself was proof of the growing national interest in library matters. Jewett, elected conference president, held the floor for half a day explaining at length his plans for the development of the

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Smithsonian library. He began by presenting statistics about copyright deposits received at the Smithsonian, emphasizing, as always, the deficiencies in the system and the need for enforcement provisions. In spite of his difficulties with Henry, Jewett explicitly reaffirmed his belief that "a large central library of reference and research will be collected at the Smithsonian Institution, if not by the expenditure of the funds of the Institution, then by other means," and he warmed the hearts of supporters of the national library cause by eloquently proclaiming a great central library to be "an important national object; as necessary to secure the literary independence of this people as was the war of the Revolution to secure its political independence." The librarians responded enthusiastically and passed resolutions approving the idea of the Smithsonian as the national library and endorsing Professor Jewett's stereotype cataloging scheme.¹³

But time had run out for Jewett and his national library plans at the Smithsonian. In 1854 newspaper and magazine reports hostile to Secretary Henry and his plans for the Smithsonian began to appear with increasing frequency; Henry correctly surmised that Jewett was responsible for the articles and resolved to take action. Assured of the support of a majority of the Board of Regents, Secretary Henry fired Professor Jewett on July 10, 1854. Senator Choate angrily resigned from the Board of Regents, Jewett strongly protested, dozens of outraged editorials appeared, from Washington to Boston, and a Congressional investigation reviewed the entire affair. But Henry had gathered his evidence and built his case carefully, and his victory was never seriously in doubt.

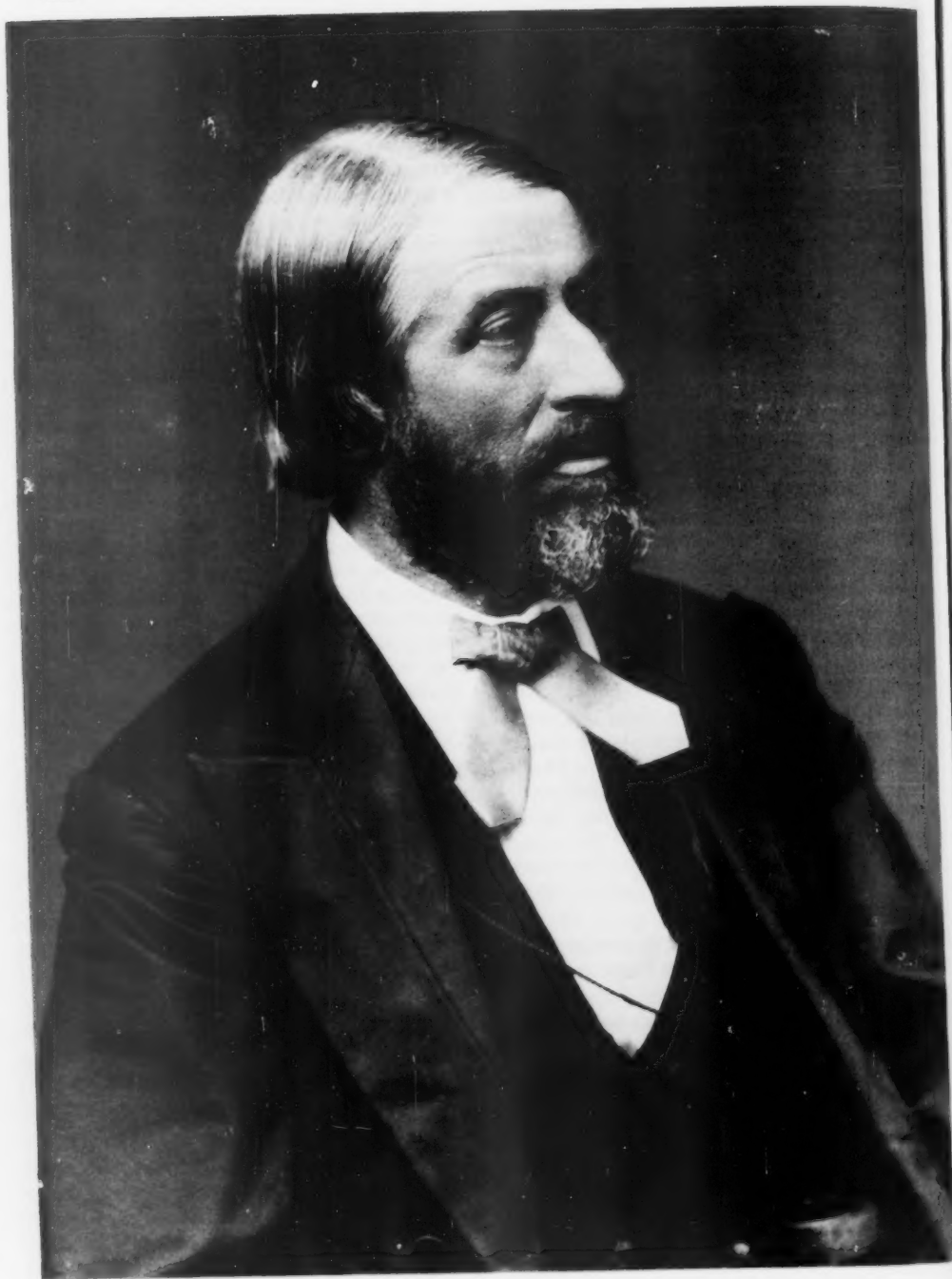
While Senator Choate and other national library supporters continued the battle in Congress, others conceded defeat and mused that, after all, the Smithsonian might not be the most suitable institution for the national library. *Norton's Literary Gazette* took this position, stating that Smithson's bequest "would not be more than sufficient to lay the foundation of the library that our country should now have."¹⁴ Professor Jewett returned to New England, became the successful Superintendent of the Boston Public Library, and dropped his national library plans.

The value of the copyright deposits in the Smithsonian library was at the root of the disagreement between Jewett and Henry, and once he was rid of Jewett, Secretary Henry turned his attention to securing the repeal of the irksome deposit requirement. He had always been dismayed at the odd assortment of chromolithographs, maps, and other objects brought into the Smithsonian by the copyright law and unhappy with the nonscientific contents of most of the books. Henry felt most of the deposits were worthless and resented the administrative expense they represented, as well as the popular image and clientele they brought to his Institution. On March 5, 1855, the Smithsonian was relieved of paying the additional postage due on deposits, as Congress finally passed an act allowing copyright deposits to be sent free through the mails, a reform long advocated by Jewett.

Henry favored the consolidation of copyright activities at the Patent Office, where the patent business was centralized, and felt that the deposit of a single copy would be sufficient. On February 5, 1859, he was successful: the 1846 law requiring the deposit of copies in the Smithsonian Institution and the Library of Congress was repealed. The copyright records and the 12,000-volume copyright library in the Department of State were transferred to the Patent Office, which was to receive the single copy forwarded by the district court clerks from that date hence. After a 13-year trial the concept of deposit for use had suffered a severe setback, as the single copy now sent to the Patent Office was the deposit for record and not available for use. The lack of enforcement power in the 1846 law was the major reason for the failure of the first national effort in the United States to provide copyright deposits for the development of library collections. Unable to establish an effective means of building a national collection, Jewett had failed to realize his national library plans for the Smithsonian.

Meanwhile, at the Library of Congress

The Librarian of Congress between 1846 and 1859, when the copyright law brought deposits to the two institutions, was John Silva Meehan, an appointee of Andrew Jackson. Meehan supported Joseph Henry's efforts to have the deposit



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provision repealed; during the 13 years when it was in effect, the law brought only about 4,200 volumes into the Library of Congress, and it was never regarded as an important means of acquiring materials. In December 1851 the Library had suffered a disastrous fire, in which 35,000 of its 55,000 volumes were destroyed, including many copyright deposits. Congress generously appropriated \$85,000 to rebuild the Library's collections, and Meehan devoted most of his time to preparing purchase lists for the Library's London bookdealer. Between January 1852 and April 1856 more than 36,000 volumes were purchased, while only 2,000 were acquired through copyright.¹⁵

Meehan's assistant, E. B. Stelle, handled the copyright correspondence and viewed the whole copyright business as a burden. The Library suffered the same problems in relation to copyright deposits as did the Smithsonian: few publishers bothered to deposit copies, and the issuing of receipts and certificates was a troublesome administrative duty. Publishers frequently forwarded the two deposit copies in the same package, and Stelle continually requested them to mail the deposits separately, one to each institution.

While he often pleaded ignorance of legal points related to copyright, Stelle did encourage publishers to deposit their volumes when in doubt. In 1854, apparently unaware of the *Jolie v. Jacques* decision, he wrote an Ohio author:¹⁶

Questions in relation to the perfection of copyright under this law have arisen among some of the publishers of the north, but whether the question has been carried to the courts, I know not. I think you had better send your book, as required by law, and should the point arise with regard to the law being carried out, you will at least have shown your intention to have complied.

After the deposit requirement was repealed in 1859, Meehan and Stelle dutifully notified major publishers that it was no longer necessary to send copies to the Library. For the next two years, until the trickle finally stopped, deposits mistakenly sent to the Library were nonetheless usually absorbed into the collections. For example, Meehan

informed a Detroit author that the Library had kept his book, sent four months after the law's repeal, "as it would be expensive to you to have it returned." Another author found his errant deposit placed in the Library's collections "as a 'present' unless you send me directions to the contrary." Not a collection-builder, Meehan simply found it more convenient to add the stray books to the collections than to return them.¹⁷

In 1859 the *Manual of Public Libraries, Institutions, and Societies in North America*, originally intended as a continuation of Jewett's *Notices of Public Libraries* (1849) and compiled by William J. Rhees, Chief Clerk of the Smithsonian, was published. By 1859 the American library movement had blossomed, and Rhees' *Manual* was considerably larger than Jewett's slim survey; Secretary Henry, not at all anxious to again associate the Smithsonian with a "national" library survey, refused to publish the *Manual* under the auspices of the Institution, and Rhees published it himself. According to his tabulation, Harvard was still the largest American library, holding approximately 113,000 volumes, followed closely by the Astor Library, the Boston Public Library, the Boston Athenaeum, Yale, and then the Library of Congress and the Library Company of Philadelphia, each with 63,000 volumes. The Smithsonian library contained only 25,000 volumes.

Ainsworth Rand Spofford

With the withdrawal of the Smithsonian Institution from its position of leadership among American libraries, the repeal of the deposit-for-use provision in the copyright law, and the widening of the sectional dispute between North and South, Congressional and literary interest in the national library cause subsided. Yet the Civil War proved to be an indirect stimulus to the national library effort, for it brought to Washington a Cincinnati bookseller and journalist who, as Librarian of Congress from 1865 to 1897, successfully used the concept of deposit for use to build the basis of a national library.

Born in New Hampshire, Ainsworth Rand Spofford moved to Cincinnati in 1844, where as

Ainsworth Rand Spofford, Librarian of Congress from 1865 to 1897, who successfully utilized the copyright laws as the basis for a national collection. Prints and Photographs Division.

a young bookseller and editorial writer, he developed strong interests in literature and politics. In 1849, with the assistance of friends, Spofford founded the Literary Club of Cincinnati, and under his guidance the club became a western outpost of New England culture and antislavery sentiment. His close friend Reuben H. Stephenson, librarian of the Cincinnati Merchantile Library, played an active role in the 1853 librarians' conference in New York and reported on proceedings to his fellow members of the Literary Club. While in Cincinnati, Spofford developed his talents as an abolitionist pamphleteer and literary essayist, publishing one of his first articles in the *North American Review* in 1855.

In 1859 Spofford became associate editor of the Cincinnati *Daily Commercial*, a leading newspaper, and two of his earliest articles were on the subject of copyright. As with Jewett, the copyright deposits were of greatest interest, and on February 10, 1859, Spofford wrote an article which emphasized the variety of deposits received by the U.S. district court clerk in Cincinnati, finding that "Twenty-six copyrights have been secured, of which one was for a cough label, one for a lithograph, three for maps, six for book-keeping and interest tables, and fifteen for books. Of the latter, five were revisions and new editions of old books, and ten were new books."

Spofford was sent to Washington in 1861 as a correspondent for the *Commercial*. When not busy preparing dispatches for his newspaper, he visited Reuben H. Stephenson's brother, John G. Stephenson, who had recently been appointed Librarian of Congress by President Lincoln. Librarian Stephenson, impressed with the knowledge of books, enthusiasm, and Republican credentials of his brother's friend, offered Spofford the job as Assistant Librarian of Congress. Uncertain of his future with the *Commercial*, Spofford accepted.

While the Library of Congress tied for sixth place among U.S. libraries in the 1859 Rhees survey, Spofford never considered it anything but the national library. Like the national library advocates of the *North American Review* and the supporters of the cause in the Smithsonian debate, he felt the primary function of the American national library should be the accumulation of a comprehensive collection of American publica-

tions; his first official letter was therefore probably a poignant reminder of the potential role of copyright deposits in building a collection worthy of a national library. On September 23, 1861, he wrote a gentleman in St. Paul, Minn.:¹⁸

In reply to your favor . . . relating to your Map of Dakota, I would state that the Law requiring a copy of each publication issued to be deposited in this Library was repealed Feb'y 5, 1859, and all Books & Maps sent by mail to the Library of Congress are now deposited in the Department of Interior.

Spofford was the intellectual heir of Charles Coffin Jewett's views on the importance of copyright deposits to the development of an American national library, but his task was easier than Jewett's. For example, he could deal directly with Congress and was able to act effectively less than two months after his promotion to Librarian on December 31, 1864. By February the Joint Committee on the Library agreed to support an amendment which would return the copyright privilege of deposit to the Library of Congress.

Spofford originally proposed that the deposit copy sent to the Library be in place of the copy sent to the Patent Office, but it was instead agreed that an additional deposit copy be sent to the Library, designated by law for its use. Therefore, at the suggestion of the Librarian, Senator Jacob Collamer of Vermont, the chairman of the Joint Committee, added the desired deposit provision to a pending copyright amendment which extended protection to photographs. Collamer, however, was not telling the whole story when he explained to Senator Charles Sumner that the proposed change in the deposit system was "merely for carrying into effect what used to be the law formerly, that one copy of all these publications shall be sent to the Library."¹⁹

For the 1865 deposit amendment was stronger than the 1846 law: it stipulated for the first time that failure to deposit a copy for use could result in the forfeiture of the copyright previously secured. But actual deposit within the Library was still not ensured, for the Librarian was responsible for detecting any violations and for claiming delinquent deposits. Nonetheless, the concept of deposit for use assumed a new importance when the amendment of March 3, 1865, passed, because the Library of Congress now had a legal right to claim for its collections and use "a single

copy of every book, pamphlet, map, chart, musical composition, print, engraving, or photograph, for which copyright shall be secured."

In 1860 Joseph Henry sent a large accumulation of American newspapers to the American Antiquarian Society "in exchange for works more immediately in accordance with the design of the Institution." A fire in the Smithsonian Building in 1865 presented him with another opportunity to streamline the Smithsonian library. As Spofford had recently obtained Congressional authorization for the physical expansion of the Library of Congress into larger, fireproof rooms, Henry proposed the deposit of the 40,000-volume Smithsonian library in one of those rooms. His purpose was not to separate the collection from the Smithsonian, "for it must still bear its name and be subject to its control," but instead to place it "where its preservation will be more certain and its usefulness more extended."²⁰ Naturally Spofford was willing, if not eager, to receive the collection, and on April 5, 1866, Congress approved the transfer of the Smithsonian library, including its copyright deposits received between 1846 and 1859.

The transfer of the Smithsonian library to the Library of Congress, together with the Copyright Act of 1865, eliminated any possibility that the Smithsonian might someday become the national library. Nevertheless, as Jewett had hoped, the Smithsonian library formed the basis of a national library collection, but the national library was at the Library of Congress: the transfer of the Smithsonian library added 40,000 volumes to the Library's collection of 99,000 volumes, gave the Library of Congress the outstanding collection of publications of scientific societies in the Nation, and provided for its continued expansion. A few years later Joseph Henry fully recognized the importance, if not the irony, of the situation: "The collection of books owned by Congress would not be worthy of the name of a national library were it not for the Smithsonian deposit."²¹

In his 1866 annual report Spofford discussed the importance of enforcement power in the copyright deposit provisions, noting that "the benefits of the law to the Congressional Library will depend greatly on the means provided for its enforcement and the vigilance, with which it

is administered." Spofford himself tried to administer the law with utmost diligence, making periodic trips to the district courts in New York, Philadelphia, and Boston to obtain information from the copyright records so he could demand copies, as provided in the law. He also corresponded with more than 30 district court clerks throughout the country, asking them to forward transcripts from their copyright records from which he could claim deposits not received by the Library. In early 1867, tired of performing what he considered unnecessary labor to claim what legally belonged to the Library, Spofford, again acting through the Library Committee, proposed an amendment which imposed a \$25 fine for non-compliance and clarified the postage-free status of deposits mailed to the Library. The amendment quickly became law, and the improved results were noticeable immediately.

In 1866, the first full year of the 1865 law's operation, only 1,996 items were deposited in the Library; but in 1867, with the enforcement amendment in effect for most of the year, 4,499 items were deposited, mostly books, pamphlets, and periodicals but also 1,256 pieces of music, 319 engravings and photographs, and 91 maps. By the end of 1867, the Library's collection of over 165,000 volumes was the largest in the United States,²² owing primarily to the acquisition of the Smithsonian deposit and the collection of Americana previously owned by Peter Force and purchased during the year. The Library's rooms had been expanded, and with the establishment of a more effective copyright law, Spofford admitted that the Library had experienced a year "unexampled in its past history."

But he was still troubled by the copyright law. While the Library was now receiving over 75 percent of all U.S. copyrighted publications, Spofford wanted *all* copyrighted publications available in the Library, for it should represent, as nearly as possible, "the complete product of the American mind in every department of science and literature." He found that even with the "utmost diligence" it was impossible to obtain all the copyrighted publications, since he was forced to pursue delinquent publishers and authors through the 44 U.S. district courts where the original copyright registrations were still being made.²³

The entire system needed changing, and Spofford proposed to eliminate the district courts and the Patent Office from the copyright system altogether by centralizing all registration and deposit activities at the Library of Congress. According to his plan, both deposit copies—the copy for legal record and the copy for library use—would be sent directly to the Library of Congress. The Librarian would be responsible for registration and for keeping the copies deposited as legal evidence separate from the general collection.

Early in 1870, Spofford presented his ideas for the centralization of copyright activities to Representative Thomas A. Jenckes of Rhode Island, whose Committee on Patents was about to report out a bill for the revision and consolidation of the patent laws. Spofford previously had gained the support of Samuel S. Fisher, a patent lawyer from Cincinnati who had been appointed Commissioner of Patents on April 26, 1869. Like Spofford, Fisher had been a member of the Literary Club of Cincinnati, and Fisher and Jenckes had corresponded on the subject of patent law reform before Fisher came to Washington. Assured of the support of the Patent Office, the copyright registration agency and legal custodian of the deposit for record, Spofford wrote a 1,600-word letter on April 9, 1870, to Representative Jenckes outlining seven arguments favoring the centralization of all copyright activities at the Library:²⁴

Under the present system, although this National Library is entitled by law to a copy of every work for which a copyright is taken out, it does not receive, in point of fact, more than four-fifths of such publications.

The transfer of the Copyright business proposed would concentrate and simplify the business, and this is a cardinal point. . . . Let the whole business . . . be placed in the charge of one single responsible officer, and an infinitude of expense, trouble, and insecurity would be saved to the proprietors of Copyrights and to the legal profession.

The advantage of securing to our only National Library a complete collection of all American copyright entries can scarcely be over-estimated. . . . We should have one comprehensive Library in the country, and that belonging to the nation, whose aim it should be to

preserve the books which other libraries have not the room nor the means to procure.

Having all American publications thoroughly catalogued . . . in an annual volume, carefully edited and authoritatively issued from the press of the Government . . . would be an invaluable aid to thousands.

The proposed reform of the present unsatisfactory methods of recording and perfecting copyright would take away all the objections now so freely brought against the law.

The proposed change would be a great economy for the Government. It would save the Patent Office the trouble, expense, and room of providing for a great library of material which it cannot use and does not want. . . . A copyright is not an invention or a patent—it is a contribution to literature.

By requiring the Librarian to make an annual report to Congress, a highly important and interesting class of facts would be added to our national statistics.

Less than a week later, on April 14, 1870, Jenckes skillfully condensed Spofford's eight pages of arguments into a short, effective speech advocating the transfer of the copyright business to the Library,²⁵ and attached the proposal to his bill revising the patent laws. Jenckes' bill passed Congress easily, and when it was signed into law by President Ulysses S. Grant on July 8, 1870, the Library of Congress became the first central agency for copyright registration and for the custody of copyright deposits in the United States.

While fully aware of the importance of copyright centralization in establishing the Library of Congress as a national library, Spofford never emphasized national library arguments in his dealings with Congress on the subject. Instead, as in his letter to Jenckes, he began with the assumption that the Library was already recognized as the national library and stressed the economies and efficiencies which would result to the Government and the publishing world through centralization. In his speech of April 14 Jenckes did not refer to the Library of Congress as the national library or as a potential national library.

While Spofford's practical successes were his own, his intellectual debt to Jewett, whose

First page of Spofford's letter to Representative Thomas A. Jenckes of Rhode Island, in which he argues that the Library of Congress should be the central agency for copyright registration and for custody of copyright deposits. Manuscript Division.

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P.S. the important fact omitted in this last writing is that under the present
 system, no one knows what
 copyright publications
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 By requiring the Librarian
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 be added to our
 national statistics.

Library of Congress,

Washington, April 9/1870.

Hon. J. A. Leaches;

Chairman Committee of Patent & Copyrights;

Dear Sir,

Permit me to bring to
 your attention some leading reasons why the
 transfer of the entire Copyright business and books
 to the care of the Library of Congress would promote
 the public interest.

1. Under the present system, although this National
 Library is entitled by law to a copy of every work for
 which a Copyright is taken out, it does not receive,
 in point of fact, more than four-fifths of such publi-
 cations. It is made the duty of the Librarian to make
 demand from delinquent proprietors of Copyrights
 of a copy for this Library. To do this, I must have au-
 thentic evidence of every Copyright that is issued
 in the United States. Now there are forty-four
 judicial Districts, the Clerk of each of which issues
 Certificates of Copyright. It is made the duty of all

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mantle and cause he assumed, was great. Jewett and Spofford shared the same view of five aspects of copyright deposit as a means of developing a national library collection. Each was convinced that: 1) deposit for library use protected the right of the public, just as deposit for record protected the right of the author; 2) his institution, as a Government-sponsored agency open to the public, had an irrefutable claim to the deposit copy intended for public use; 3) deposit for use was the most practical channel through which a comprehensive collection of American publications could be accumulated; 4) the centralized, permanent accumulation of the "products of the American press" was a positive national benefit and the natural basis of an American national library; and 5) the collection of copyright deposits should be as complete as possible, and completeness was ensured only by strong enforcement provisions in the law.

Spofford and Jewett each pursued the cause of a national library zealously and enthusiastically. However, before the Civil War, it was difficult for any national institution to succeed in the United States, and the Smithsonian Institution presented special difficulties. Supported solely by an endowment, the Institution had to limit its functions in order to survive, a necessity recognized and skillfully used by Joseph Henry to the dismay of Jewett and supporters of the national library concept. At midcentury, in spite of increased library activity, a majority of Americans—including most Congressmen and the press—were indifferent to the subject of a national library, as they had been to a national university and other proposals for national cultural or scientific institutions. And Washington, D.C., as a location posed difficulties. Although the National Government was situated there, the city was relatively isolated, and the literary, commercial, and social centers of the country were elsewhere; the Federal Government itself, rarely perceived beyond Washington, was weak and its very survival becoming more questionable.

The Civil War changed the situation drastically. The Federal Government not only survived, it established itself; Washington emerged as a true political capital and an important Federal city. National pride, new wealth, and the growth of new Federal agencies and institutions changed the cultural climate and assisted Spofford's national library cause.

The Smithsonian Institution itself, through the efforts of Joseph Henry, aided Spofford, not only through the Smithsonian deposit of 1866 but also by its example: an institution successfully promoting scholarly activity and contributing to Washington's intellectual climate. Throughout the United States scholarship achieved a new status and increased attention, with numerous professional associations created to promote and sustain it. Intellectual activity was becoming organized and institutionalized, and Congress, responding to Spofford's pleas and proposals, began to recognize the need for and the potential role of a national library in the United States.²⁸

The Library of Congress was exclusively a library, and this was probably Spofford's greatest advantage over Jewett. Unlike the Smithsonian Institution or the Patent Office, the Library was intended solely as a library, and Spofford faced no competing schemes for the development of his institution. He was able to deal directly with members of the Joint Committee on the Library and with all other Congressmen, most of whom fully appreciated his talents as a reference librarian, bibliographer, and speechwriter.

Spofford not only operated under more favorable conditions than Jewett; his personality was better suited to the task. Less mercurial and more tactful, Spofford deliberately maintained superb relations with all Congressmen; keeping his personal reputation above reproach, he did not hesitate to ask individual Congressmen for support when he felt it necessary. Put simply, Spofford was a skillful politician; Jewett was not.

At the same time Spofford's goals and efforts were more limited, for unlike Jewett he never viewed the national library as the center of a national system of libraries offering nationwide service. Instead, for Spofford the national library was essentially a centralized permanent accumulation of national literature to be used for the benefit of Congress and the American people. To attain his goal, he worked with a single-minded devotion, merging personal ambition with his ambitions for the Library, thereby making the cause of the Library of Congress as the national library a natural one for any Congressman to support and a difficult one to oppose. The

copyright laws of 1865 and 1870 were striking successes in Spofford's campaign and crucial to his cause.

After passage of the 1870 law, the deposits began to arrive at an accelerated rate: over 11,500 articles in 1870, including 5,874 books and pamphlets, and almost double that number the next year. The law required that all copyright records and deposits from the district courts and the Patent Office be turned over to the Library, and the Patent Office copyright library of 23,070 volumes was added to the collections in 1871, minus the law books retained at the Department of the Interior at the request of the Commissioner of Patents. Spofford was disappointed in the size of the Patent library and the quality of the collection, but he optimistically declared that "although consisting of school-books and the minor literature of the last 40 years, (it) embraces many valuable additions to the store of American books, which it should be one object of the national library to render complete."²⁷

In its 1876 survey of the libraries of the United States, the U.S. Bureau of Education listed the rapidly growing Library of Congress and Boston Public Library as the two largest libraries in the United States, with approximately 300,000 volumes apiece.²⁸ In one decade the Library of Congress had tripled in size and risen to the top rank of American libraries. Copyright deposits constituted over 40 percent of its collections.

By 1897, when it moved from its overcrowded rooms in the Capitol across the east plaza into its spacious new building, the collections of the Library of Congress easily ranked first among American libraries, both in size and scope. Over 40 percent of its 840,000 volumes and at least 90 percent of the map, music, and graphic arts collections had been acquired through copyright deposit.²⁹

After the monumental copyright law of 1870, one other copyright law was enacted which added even further luster to the Library's collections: the act of March 3, 1891, granted U.S. copyright protection to foreign authors and brought deposits of foreign works into the Library for the first time.

Between 1865 and 1897 the only major acquisitions obtained directly from sources other than copyright deposit were the Smithsonian library,

a collection of English county histories purchased in 1875 for \$5,000, the gift of the library of Dr. Joseph M. Toner in 1882, and the Rochambeau collection purchased in 1883 for \$20,000. The Library's annual appropriation for the purchase of books averaged only \$9,000, and while a system of international exchange of public documents was successfully inaugurated, the results had only a minor impact on the collections during this period.

Between 1865 and 1897 unsurpassed "national collections" had been accumulated within each class of material brought in by the copyright law. During these years copyright deposit added to the Library's collections approximately 350,000 books and pamphlets, 47,000 maps and charts, 250,000 musical compositions, 12,000 engravings, lithographs, and chromolithographs, 33,000 photographs, 3,000 etchings, and 6,000 dramatic compositions.

The centralization of copyright activities at the Library of Congress not only developed impressive collections but also gave the Library an exclusive Government function and the national prestige which naturally accompanied it. For the first time the Library became part of the publishing and, to a lesser extent, the literary world, as well as an important Government institution rendering a service essential to the intellectual life of the Nation. As the collections increased, so did the Library's reputation, and it came at last to be generally recognized as a national institution.

As the sole copyright officer of the U.S. Government, Spofford corresponded with statesmen, scholars, and literary figures all over the United States, as well as with publishers and editors. In the process he succeeded in gaining new friends for the Library and new supporters in his long campaign for a separate library building. For example, in 1872 historian George Bancroft complimented Spofford: "Under your management the Congressional Library is attaining so high a character." After struggling with Spofford through copyright problems with *The Gilded Age* and *A Tramp Abroad*, Samuel Clemens gingerly asked permission for his nephew to "burrow a little" in Spofford's "grand literary storehouse." The influential Washington journalist Kate Field called Congressional neglect of Spof-



Library of Congress.

Washington, July 21st., 1876.

Dear Sir.

This Library has six
Editions of *Leaves of Grass*, viz

Brooklyn 1855 - 1st. Ed.
do 1856 2d. Ed.?

Boston 1860-61. 3d. Ed.?

New York 1867 4th. Ed.?

Washington 1871. 5th. Ed.?

Camden 1876 6th. Ed.?

Wishing to know from an authentic source what
other American editions have been printed if any
will you kindly inform me of the place and
date of any such publications?

Very respectfully,

A. R. Spofford

Mr. Walt Whitman

Librarian of Congress.

Spofford's scrupulous attention to details about new or revised editions is illustrated in his letter to Walt Whitman, who in turn notes in his reply: "I write on the letter, & return it so, for greater definiteness." Manuscript Division.

Carmichael New York
July 22 '76

A. R. Spofford,
Dear Sir

The Editions of my Slaves
of Grass, as within specified are
the only ones I have published -
I Comprise all. (Two Quintets,
the further Vol. just issued & me, I
believe you have.)

Walt Whitman

I write on the letter, & return it so,
for greater definiteness.

ford's space needs "a disgrace" and strongly supported his efforts to secure a new building.³⁰

In spite of the overcrowded conditions in the Library, Spofford always placed great value on the comprehensiveness of the collection brought in by the copyright law, strongly believing that "what is pronounced trash today may have unexpected value hereafter, and the unconsidered trifles of the press of the nineteenth century may prove highly curious and interesting to the twentieth." He never ceased defending the Library against charges that it was filling up with "trash" brought in by the wide net of the copyright law, asserting that "every nation should have, at its capital city, all the books its authors have produced, in perpetual evidence of its literary history and progress—or retrogression, as the case may be."³¹ He carefully ensured the complete representation in the Library of all editions of works from authors well known in his day, frequently querying established authors directly concerning the dates of new or revised editions of their works.

"Greatest Chaos in America"

Although essential to the growth and prestige of the Library, copyright deposit also created serious problems. Spofford was overwhelmed by the unceasing flow of deposits into his cramped Library. He cried to Congress for help almost immediately, and his 1871 annual report launched a 15-year struggle for an appropriation for a new building, which was not finally completed and occupied until 1897. In 1874, for the first time, the copyright law brought in more books than were obtained that year through purchase; in 1880 the law would bring in twice as many. In 1875 Spofford warned Congress that its Librarian would soon be presiding over the "greatest chaos in America," and by 1877 more than 70,000 books were "piled on the floor in all directions."

As the mountains of books, maps, music, prints, and photographs grew around him, Spofford was unable to devote much effort to the other essential functions of the Library: by 1896 the administration of the copyright law required over 75 percent of his time and the full-time efforts of 26 of the Library's 42 employees.³² Lack of space and adequate staff to cope with

the sharply increasing copyright business contributed to another embarrassing situation for the Librarian, as he was unable to keep the copyright accounts and records in presentable order. And finally Congress, while unwilling to take decisive action on Spofford's annual pleas for more space and staff between 1872 and 1885, used the congested condition of the Library and the existence of guaranteed acquisition through copyright as reasons for refusing larger appropriations for staff and the purchase of materials.

The most serious problem was the chaotic condition of the deposits themselves. Virtually inaccessible without the aid of Librarian Spofford's remarkable memory, the accumulated wealth of the collections was not fully appreciated until they were transferred into the new building and cleaned, sorted, examined, and counted. Unfortunately, numerous individual items stored in the Capitol had been damaged or simply lost.

Of the copyright deposits, the map collection apparently suffered most from the crowded conditions in the old Library. Many of the maps were stacked in damp and dusty corners throughout the Capitol and emerged in a mangled condition from the masses of material which were hauled by one-horse wagons to the new building. But in 1897 the superintendent of the new Hall of Maps and Charts reported a collection of 26,500 maps—"perhaps the best collection in the United States, unless precedence is given to Harvard." The next year he was forced to admit that there were actually 46,605 maps; the sharp statistical increase was due, not to the receipt of new material, but to the "discovery of maps in the old Library, their rescue, mending, mounting, and their final assignment."

The music collection suffered from the same crowded conditions as the maps, though it apparently suffered less physical damage. Stacked on the floor in ever-growing piles, where they could not be accessioned, classified, cataloged, nor made truly accessible, the pieces of music could not be sorted out and accurately counted until 1899. In 1898 Librarian John Russell Young asked for the first appropriated funds to purchase music. He was certain that Congress would comply, as the copyright law had already built a music collection of great value, and with an

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Spofford's warning that if he didn't get more space he "would soon be presiding over the greatest chaos in America" was hardly an exaggeration, for this was the situation when the copyright deposits were moved into the new Library building. Prints and Photographs Division.

annual appropriation it "would soon be without a rival."

Most of the approximately 250,000 pieces of copyrighted music in the Library in 1897 were popular American compositions in sheet music form, vocal and instrumental, including music for the aeolian, pianola, and other special instruments. Of particular value were the 300 bound volumes of sheet music deposited in U.S. district courts between 1820 and 1859, originally collected and carefully tended in the State Department before they were transferred to the Library. The collection also included foreign musical compositions, mostly from England, Germany, and France, published and entered for copyright in the United States after the passage of the international copyright law of 1891.

The graphic arts materials in the Capitol build-

ing were in the same embarrassing state as the other collections. Spofford was unable to arrange them in the Capitol or even to make an accurate estimate of their number. Yet the accumulated copyright deposits of photographs, engravings, etchings, lithographs, and chromolithographs, once arranged and counted in the new building, provided the Library with a collection of pictorial Americana unrivaled by any other library. Even after its first enumeration in the new building, unexpected materials continued to be unearthed. Among discoveries noted in the 1897 annual report were 800 portraits of eminent Americans, several portfolios of photographs taken in Paris during the commune insurrection of 1871, and a portfolio of etchings made during the Civil War by Confederate artists.

The copyright law also provided the Library

of Congress with a unique collection of early motion pictures. While the first public showing of a motion picture for a fee in the United States took place in 1894, the copyright law did not provide for the protection of motion pictures as such until 1912. In the meantime pioneer motion picture producers registered their works as photographs, and 172 motion pictures were thus registered for copyright and deposited in the Library of Congress between 1894 and 1897. All but nine of the films were registered by Thomas A. Edison.³³

The copyright privilege not only accelerated the growth of the Library's collections; it determined the direction and, ultimately, the quality of that growth. The very language of the 1865 law, requiring the deposit of every copyrighted "book, pamphlet, map, chart, musical composition, print, engraving, or photograph," not only ensured the future development of those collections but also the establishment of separate Library departments for their cultivation and care.

The long-needed administrative reorganization came in 1897, when the Library was preparing for its move into the new building, and separate map, music, graphic arts, and copyright departments were established. Thorvald Solberg, who had worked in the library from 1876 to 1889 and was by then a nationally known copyright authority, was appointed the first Register of Copyrights. The creation of a separate copyright department officially recognized, for the first time, the value of the copyright function to the national library.

At the same time John Russell Young, a prominent journalist and diplomat, replaced the 71-year-old Spofford as Librarian. Established in its opulent new building, the Library for the first time had ample space for the organization and storage of its copyright accumulations of 32 years. Concurrently, in 1897 it was obvious that the Library must go beyond its previous reliance on copyright as practically the sole means of expanding its collections. In his first annual report, Young succinctly described the situation faced by the Library:

We have a basis for a library of comprehensive research so broad that it only needs to be built upon with care, system, and liberality to become in a few years the most representative collection in the United

States and one of the greatest libraries of the world. While our own library has for twenty-five years lived so largely upon copyright accretions, other libraries, aided by liberal appropriations and bequests, and fortified by lists of desiderata by professional men and specialists in every field, have strengthened their collections until some of them far surpass us in important branches of learning. Numerical strength does not constitute the real force of a library.

A new era had arrived. In its 1855 editorial about the demise of the Smithsonian's national library role, *Norton's Literary Gazette* accurately prophesized the eventual need of sizable annual appropriations from Congress to fully develop and adequately maintain a national library in the United States. The New England scholars, intellectuals, and Congressmen who fought for a national library wanted such appropriations immediately, and the importance of large appropriations was always acknowledged by Jewett and Spofford, even though they recognized copyright deposit as a more immediate and practical method of achieving a national library. In 1895 Spofford predicted that the new Library building, "with the liberal fostering care of Congress, will yet be filled with the learning of all lands."³⁴

In the United States annual appropriations adequate to sustain a national library were not available until after the basis for that library had already been established. When the new Library of Congress Building opened in 1897, sizable annual appropriations for the support and development of the national library and its collections were for the first time not only feasible but imperative. Copyright deposit had provided Spofford with the means of accumulating the necessary national collections and the argument for constructing the necessary building.

In 1899 Herbert Putnam, Superintendent of the Boston Public Library, became Librarian of Congress, and in the next four years the Library's national services—cataloging, classification, reference, loan, and bibliographic—developed spectacularly, and its place among the national libraries of the world was assured. Putnam also extended the other methods of increasing the collections, such as exchange, gift, and transfer, and secured generous appropriations from Congress to increase the collections; the 1902 appropriation for the purchase of materials was \$70,000.

The national services and prestige of the Library were based, as Putnam recognized, on the unparalleled national collections already accumulated, the books, maps, music, prints, and photographs acquired as copyright deposits, mostly since 1865. By 1902 the Library of Congress was truly the national library, and Putnam paid homage to its collections and the ideals and efforts of Charles Coffin Jewett and Ainsworth Rand Spofford, while looking to the Library's

challenging future: "The opportunities of the Library of Congress for rendering service properly to be expected of the National Library of the United States appear ample, and conditional only upon adequate development of the resources already at its disposal."³⁵

Today copyright deposit is still one of the Library's major acquisitions sources,³⁶ but between the years 1865 and 1897 it played a crucial role in the development of the national library.

NOTES

¹ Gertrude Burford Rawlings, *The British Museum Library* (New York, 1916), p. 78.

² For copyright deposit from the legal standpoint, see Elizabeth K. Dunne, *Deposit of Copyrighted Works* (Washington, 1960. Copyright Law Revision Studies No. 20). See also Thomas G. Tanselle, "Copyright Records and the Bibliographer," in *Studies in Bibliography* (Charlottesville, 1969), vol. 22, p. 77-124; and Martin A. Roberts, *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790-1870* (Washington, 1939).

³ *The American Almanac and Repository of Useful Knowledge for the Year 1837*, edited by Charles Bowen (Boston, 1836), p. 82-83. On literary nationalism and library development, see Jesse H. Shera, *Foundations of the Public Library* (Chicago, 1949), p. 206-216; and Ray W. Frantz, Jr., "A Reexamination of the Influence of Literary Nationalism on the Public Library," *Journal of Library History*, 1:182-186 (July 1966).

⁴ *Congressional Globe*, January 8, 1845, p. 105.

⁵ *The Smithsonian Institution: Documents Relative to Its Origins and History, 1835-1899*, edited by William J. Rhees (Washington, 1902. Smithsonian Miscellaneous Collections 42), p. 381-382.

⁶ See discussion, William Dawson Johnston, *History of the Library of Congress, 1800-1864* (Washington, 1904), p. 403-506.

⁷ Henry to Jewett, March 23, 1847, Smithsonian Institution archives.

⁸ See Joseph A. Borome, *Charles Coffin Jewett* (Chicago, 1951), p. 18-106; Wilcomb E. Washburn, "Joseph Henry's Conception of the Purpose of the Smithsonian Institution," in *A Cabinet of Curiosities* (Charlottesville, 1967), p. 106-129.

⁹ Jewett to Henry, April 26, 1848, quoted in Borome, p. 41-42.

¹⁰ For the cataloging scheme, see *Annual Report of the Board of Regents of the Smithsonian Institution*, 1850, p. 32-41; for the listing of copyright deposits, see Joseph W. Rogers, *U.S. National Bibliography and the Copyright Law* (New York, 1960), p. 21-29.

¹¹ Charles C. Jewett, *Notices of Public Libraries in the United States of America* (Washington, 1851), p. 140-141, 190.

¹² *North American Review*, 71:220 (July 1850); *Norton's Literary Gazette*, 2:23 (February 15, 1852) and 2:129 (July 15, 1852).

¹³ *Norton's*, 3:170-176 (October 15, 1853).

¹⁴ *Ibid.*, n.s. 2:67 (February 15, 1855).

¹⁵ Deposit statistics compiled from 1849 *Catalogue of the Library of Congress* and its annual supplements, 1846-48, 1850-59, and from Meehan to Senator James A. Pearce, April 18, 1856, Librarian's Letterbook No. 4. This and other letterbooks of the Librarian are in the Library of Congress archives.

¹⁶ Librarian's Letterbook No. 3, February 28, 1854.

¹⁷ Copyright Letterbook, June 14, 1859, p. 474 and July 15, 1859, p. 476, Copyright Office archives.

¹⁸ Librarian's Letterbook No. 6.

¹⁹ Spofford to Messrs. Robert Clarke & Co., May 29, 1867, Librarian's Letterbook No. 7; *Congressional Globe*, February 22, 1865, p. 981.

²⁰ *Annual Report of the Board of Regents of the Smithsonian Institution*, 1865, p. 70.

²¹ *Ibid.*, 1873, p. 21.

²² *City of Boston Annual Report of the Trustees of the Public Library*, 1869, p. 39-40, appendix 23.

²³ *Annual Report of the Librarian of Congress*, 1868, p. 4; and A. R. Spofford, "The Copyright System of the United States—Its Origin and Growth," in *Celebration of the Beginning of the Second Century of the American Patent System* (Washington, 1892), p. 149-153.

²⁴ Fisher to Jenckes, February 10, 1866, and Spofford to Jenckes, April 9, 1870, Jenckes papers, Manuscript Division.

²⁵ *Congressional Globe*, April 14, 1870, p. 2683.

²⁶ See A. Hunter Dupree, *Science in the Federal Government* (Cambridge, Mass., 1957), p. 44-90; also Wilcomb E. Washburn, "The Influence of the Smithsonian Institution on Intellectual Life in Mid-Nineteenth-Century Washington," in *Records of the*

Columbia Historical Society (Washington, 1966), p. 96-121.

²⁷ *Annual Report of the Librarian of Congress, 1871*, p. 3.

²⁸ U.S. Bureau of Education, *Public Libraries in the United States of America* (Washington, 1876), p. 1012-1142.

²⁹ These statistics and the estimate that follows of the total number of copyright deposits received at the Library of Congress, 1865-97, are based on statistics in the *Annual Report of the Librarian of Congress* for the years 1866-1901; A. R. Spofford's *A Book for All Readers* (New York, 1900), p. 410-411; and a letter from Thorvald Solberg to John Russell Young, November 8, 1897, in Solberg's Copyright Letterbook No. 6, Copyright Office archives. The Librarian's 1901 *Annual Report* is especially useful.

³⁰ Bancroft to Spofford, September 21, 1872; Clemens to Spofford, December 31, 1880; Field to Spofford, March 11, 1885, Spofford papers, Manuscript Division.

³¹ A. R. Spofford, "The Function of a National Library," in Herbert Small, *Handbook of the Library of Congress* (Boston, 1899), p. 125.

³² Joint Committee on the Library, *Condition of the Library of Congress, March 3, 1897* (54th Cong., 2d sess. S. Rept. 1573), p. 33-127.

³³ Compiled from Howard Lamarr Walls, *Motion Pictures 1894-1912* (Washington, U.S. Copyright Office, 1953), p. v-ix, 71-90.

³⁴ Norton's, n.s. 2:67; A. R. Spofford, *Special Report of the Librarian of Congress* (54th Cong., 1st sess., S. Doc. 7), p. 16.

³⁵ Herbert Putnam, "A National Library for the United States," *The Bookman*, 15:52-57 (March 1902).

³⁶ According to a table prepared by Joseph W. Rogers, 15,276,183 copies of works were deposited in the Library between 1902 and 1957; see Dunne, *Deposit of Copyrighted Works*, p. 24. The same study contains a discussion of the effect of deposits on the Library's collections in this century.

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NOTABLE DATES IN AMERICAN COPYRIGHT 1783-1969

compiled by Benjamin W. Rudd

January 8, 1783. The earliest copyright statute in the United States was passed by the General Court of Connecticut under the title "An Act for the Encouragement of Literature and Genius." Dr. Noah Webster, famed lexicographer and one of Connecticut's most distinguished men, was directly instrumental in securing its enactment.

March 10, 1783. The Continental Congress resolved "that a committee be appointed to consider the most proper means of cherishing genius and useful arts through the United States by securing to the authors or publishers of new books their property in such works." The committee chosen consisted of Hugh Williamson, Ralph Izard, and James Madison.

March 17, 1783. Massachusetts enacted a copyright law. It provided for a deposit of two copies in the Harvard University Library.

April 21, 1783. Maryland enacted a copyright law.

May 2, 1783. In response to a favorable committee report, the Congress adopted a resolution recommending to the several States the adoption of copyright laws to protect "new books, not hitherto printed" for a period of not less than 14 years from the first publication, with a renewal term of not less than 14 years.

May 27, 1783. New Jersey enacted a copyright law.

November 7, 1783. New Hampshire enacted a copyright law.

December 1783. Rhode Island enacted a copyright law.

March 15, 1784. Pennsylvania enacted a copyright law.

March 26, 1784. South Carolina enacted a copyright law.

December 29, 1785. North Carolina enacted a copyright law.

January 7, 1786. Virginia enacted a copyright law.

February 3, 1786. Georgia enacted a copyright law.

April 29, 1786. New York enacted a copyright law.

September 28, 1787. The Continental Congress ordered the Constitution to be sent to the State legislatures for ratification. The provision upon which the Copyright Act is founded (Article I,

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section 8, clause 8) grants Congress the power "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

June 23, 1789. The first Federal copyright bill, H.R. 10, entitled "A bill to promote the progress of science and useful arts by securing to authors and inventors the exclusive right to their respective writings and inventions," was introduced during the first session of the First Congress by Benjamin Huntington of Connecticut. The larger part of the bill was devoted to patents. No action was taken on it.

January 28, 1790. H.R. 39, "A bill for securing the copy-right of books to authors and proprietors," was introduced by Ædanus Burke of South Carolina during the second session of the First Congress. The bill was reported from committee on February 2, ordered to be recommitted, and a substitute bill (H.R. 43) was presented on February 25.

February 25, 1790. H.R. 43, 1st Cong., 2d sess., the bill which was to become the first Federal copyright law, was introduced by Elias Boudinot of New Jersey.

May 31, 1790. The first copyright law of the United States, entitled "An Act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the times therein mentioned," was enacted (1 Stat. 124, chap. 15). The rights were granted only to citizens or residents of the United States. The period of protection was 14 years; renewal for a second term of 14 years could be made by the author if he was living at the end of the first term. The following formalities were required in order to secure copyright: (1) the deposit of a printed title before publication in the clerk's office of the local U.S. district court; (2) the deposit of a copy of the work with the Secretary of State within six months after publication; and (3) the giving of a notice of the copyright by four weekly advertisements in some newspaper.

June 9, 1790. The first copyright entry, *The Philadelphia Spelling Book*, by John Barry, was

registered in the U.S. District Court of Pennsylvania.

April 29, 1802. An amendatory act (2 Stat. 171, chap. 36) extended the protection of the act of 1790 to historical prints, designed, engraved, or etched, and required a copyright notice to be printed on the copies of the work to be protected.

February 15, 1819. A law was enacted (3 Stat. 481, chap. 19) giving original jurisdiction in copyright cases to the circuit courts of the United States.

1822. The first published catalog of works resulting from the operation of the copyright law appeared under the title *A List of Books, &c. Deposited in the Patent Office of the United States, for Securing Copy rights—From Jan. 1796 to Jan. 1822* (13 p.). The catalog was issued as a supplement to the 1822 issue of an anonymously compiled serial, *A List of Patents Granted by the United States*, first brought out in 1820.

February 3, 1831. The first comprehensive revision of the copyright law (4 Stat. 436, chap. 16) expanded the subject matter of copyright to include musical compositions. The term "historical print" was enlarged to "any print or engraving." The requirement of newspaper notice of copyright was deleted except in respect to renewals. The first term of protection was extended to 28 years, but the renewal period remained 14 years. The renewal privilege was granted not only to the author, but also to his widow or children if he himself was no longer living at the end of the original term.

March 19, 1834. The first landmark copyright decision was handed down by the Supreme Court in the case of *Wheaton v. Peters*, 33 U.S. (8 Pet.) 591. The decision, which came from a divided court, held, among other things, that an author has perpetual rights in his unpublished works, but that after publication his rights are limited by the statutory provisions imposed by the Congress, including deposit requirements. The case is to be regarded as laying the groundwork for modern U.S. copyright jurisprudence.

June 30, 1834. An amendatory law (4 Stat. 728, chap. 157) was enacted requiring the recording of copyright assignments.

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February 2, 1837. A strong appeal for copyright protection for foreign authors in the form of a petition, signed by 56 of the foremost British writers, among whom were Edward Bulwer-Lytton, Thomas Carlyle, Benjamin Disraeli, Maria Edgeworth, Harriet Martineau, Robert Southey, and Thomas Moore, was presented to the Senate by Senator Henry Clay, to whom the document had been delivered.

February 16, 1837. A bill, S. 223 (24th Cong., 2d sess.), providing that the benefits of the Copyright Act of February 3, 1831, be extended to any subject or resident of Great Britain, Ireland, and France was submitted by Henry Clay, accompanied by a favorable report, but no further action was taken on the bill. It was the first international copyright bill and the first bill to contain a "manufacturing clause" which made the protection of works of foreign authors dependent upon manufacture in the United States. The bill was reintroduced by Clay in the four succeeding Congresses, but no further action was taken.

January 22, 1842. Charles Dickens landed on American soil and in the ensuing months made a number of speeches stating his belief that it was time for the United States to join the growing movement for the international protection of literary property. He inspired such men as Horace Greeley to espouse his cause.

August 10, 1846. The act establishing the Smithsonian Institution (9 Stat. 102, chap. 178) was approved. Section 10 of this act directed the authors and proprietors of copyrighted works to deposit copies with the Smithsonian Institution and the Library of Congress in addition to the copy required for eventual deposit with the Secretary of State, but it prescribed no penalties for failure to do so.

February 18, 1853. A treaty, negotiated by Edward Everett, Secretary of State, through the American Minister in London, John F. Cramp-ton, which provided simply that authors entitled to copyright in one country should be entitled to it in the other, on the same conditions and for the same term, was laid before the Senate in a message from President Fillmore. The Senate Committee on Foreign Relations reported the

Everett treaty favorably, but it was tabled in the Committee of the Whole.

February 23, 1854. An amendatory article to the Everett treaty, providing that the work should be registered in the United States before publication abroad, be issued here within 30 days after publication abroad, and be wholly manufactured in this country, was laid before the Senate in a message from President Pierce, but no action resulted.

March 3, 1855. An appropriations act for the Post Office Department (10 Stat. 683, chap. 301) approved on this day provided in its section 5 free mailing privileges for all copyright deposits.

August 18, 1856. An act granting to the copyright holder of dramatic compositions the sole right of public performance (11 Stat. 138, chap. 169) was approved.

February 5, 1859. An act providing that the Secretary of the Interior was to receive, keep, and distribute all public documents, with certain exceptions (11 Stat. 379, chap. 22), was approved. Section 8 of this act provided for the removal of all copyright deposits and records from the Department of State to the Department of the Interior.

March 3, 1865. An act extending copyright protection to photographs and photographic negatives (13 Stat. 540, chap. 126) was approved. It also provided for the deposit in the Library of Congress of a printed copy of each copyrighted work within one month of publication and empowered the Librarian to demand such copy, with forfeiture of copyright as a penalty for noncompliance.

February 18, 1867. An act imposing a penalty of \$25 for failure to deposit a copy of a copyrighted work in the Library of Congress and providing for the free transportation by mail of "copyright matter" (14 Stat. 395, chap. 43) was approved.

April 9, 1868. The International Copyright Association was formed, with William Cullen Bryant as president. Its avowed purpose was to promote the enactment of an international copyright law.

July 8, 1870. "An Act to revise, consolidate, and amend the statutes relating to patents and copyrights" (16 Stat. 198, chap. 230) was approved. Of this act, sections 85 to 111 related to copyright and constituted the second general revision of the copyright laws. This revision centralized the copyright business in the Library of Congress, then located in the Capitol Building, and extended copyright protection to paintings, drawings, sculpture, and models or designs for works of the fine arts. The right to dramatize or translate their own works was also reserved to authors. The act contained a recording provision which the Librarian of Congress, Ainsworth Rand Spofford, interpreted as giving him authority to publish a catalog of the works copyrighted.

June 18, 1874. An amendatory law relating to notice of copyright, fees, and prints and labels (18 Stat. 78, chap. 301) was approved. Section 1 made the insertion of a copyright notice on all copies a condition for maintaining an infringement action; section 2 established fees for recording and certifying assignments of copyrights; and section 3, which became known as the "Print and Label Law," gave the Patent Office charge of prints and labels for articles of manufacture.

1879. The first textbook on the U.S. copyright law, *A Treatise on the Law of Property in Intellectual Productions in Great Britain and the United States*, by Eaton S. Drone (Boston, Little, Brown) was published.

January 19, 1880. The Supreme Court held in the case of *Baker v. Selden*, 101 U.S. 99, that although a book describing a bookkeeping system was copyrightable, the copyright did not extend to the exclusive use of the blank accounting forms incorporated in the book.

August 1, 1882. An amendatory law prescribing the position of the copyright notice on designs for molded decorative articles, tiles, plaques, or articles of pottery or metal subject to copyright (22 Stat. 181, chap. 366) was approved.

March 17, 1884. A significant Supreme Court decision was handed down in the case of *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, which upheld the constitutionality of the act of March 3, 1865, in respect to the copyrightability

of photographs by expressly holding that a photograph is a "writing" within the meaning of the copyright clause of the Constitution.

September 9, 1886. The so-called Berne Convention, which created a union of states (International Copyright Union) for the purpose of maintaining a comprehensive, international system of copyright protection for the benefit of their respective nationals, was signed by 10 states at a conference which met at Berne, Switzerland. The United States was represented at the conference but did not sign.

March 3, 1891. The so-called International Copyright Act of 1891 (26 Stat. 1106, chap. 565) was approved. Under its terms protection for works of foreign origin was made possible for the first time. Their eligibility for protection in the United States depended on whether the author of a work was a citizen of a "proclaimed country," i.e., a country which was found by the President of the United States, in a proclamation issued by him, to meet certain conditions.

January 12, 1895. The first of the so-called Printing and Binding Acts (28 Stat. 601, chap. 23) was approved. Section 52 of this act prohibited the copyrighting of any Government publication.

January 6, 1897. An amendatory law providing for damages in case of unauthorized public performance of a copyrighted dramatic or musical composition, and imprisonment if the unlawful performance "be willful and for profit" (29 Stat. 481, chap. 4), was approved.

February 19, 1897. An appropriations act for the Government (29 Stat. 538, chap. 265) approved on this day provided for a separate Copyright Department in the Library of Congress and created the position of Register of Copyrights.

July 22, 1897. The first Register of Copyrights, Thorvald Solberg, was appointed.

February 2, 1903. A Supreme Court decision by Justice Holmes in the case of *Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, which upheld copyright in circus posters, was handed down. The decision is largely responsible for the rule which accords copyright protection to certain advertisements and established the principle

that originality is the major test of copyrightability and the artistic quality of a work is not a determinative factor.

February 24, 1908. In a Supreme Court decision in the case of *White-Smith Music Publishing Co. v. Apollo Co.*, 209 U.S. 1, the Court held that a perforated "pianola" music roll was not a "copy" of a musical composition within the meaning of the copyright law because it was not "a written or printed record in intelligible notation."

February 15 (calendar day, February 17), 1909. Frank Currier introduced H.R. 28192, which was the successor to several similar bills for general revision of the copyright laws and which became the Copyright Act of March 4, 1909.

February 22, 1909. Representative Currier submitted the report of the Committee on Patents to accompany H.R. 28192 (H. Rept. 2222, 60th Cong., 2d sess.). This is undoubtedly one of the most significant reports in the history of U.S. copyright legislation and is widely quoted in American copyright literature and jurisprudence, particularly for its statements to the effect that copyright is purely a statutory right and that it is conferred "Not primarily for the benefit of the author, but primarily for the benefit of the public."

March 4, 1909. The third general revision of the copyright laws (35 Stat. 1075, Public Law 349) was signed by President Theodore Roosevelt, one of his last official acts. The act, which came into force on July 1, 1909, is, with some minor amendments, the basic law in force today. Among the notable changes in the 1909 law as compared with the old law are the following: (1) copyright was secured by publication of the work with notice of copyright; (2) copyright was made available for unpublished works designed for exhibition, performance, or oral delivery; (3) works of foreign origin in foreign languages were exempted from the requirement of American manufacture; (4) the renewal term of protection was extended by 14 years to bring the maximum term of protection up to 56 years and the requirement of newspaper copyright notice for renewals, the last category for which the requirement remained, was deleted; and (5) proprietors

of musical compositions were granted initial mechanical recording rights, subject to a compulsory licensing provision.

August 24, 1912. An amendatory act which expressly included motion picture films in the subject matter of copyright (37 Stat. 488, Public Law 303) was approved. Before that they had been registered as photographs.

February 13, 1914. The American Society of Composers, Authors and Publishers (ASCAP) was organized by Victor Herbert and eight other outstanding writers and publishers of musical compositions for the purpose of assisting its members in licensing performances of their works and policing and protecting against unlicensed performances. Nathan Burkan, a prominent young attorney, was one of the founders and became its first general counsel.

July 13, 1914. The Convention on Literary and Artistic Copyright, signed at Buenos Aires on August 11, 1910, by the United States and 19 Central and South American States, was proclaimed by President Woodrow Wilson. It is the first general international copyright treaty agreed to by the United States.

January 22, 1917. Justice Holmes handed down a landmark decision in a suit instituted by Victor Herbert (*Herbert v. Shanley Co.*, 242 U.S. 591), which upheld the copyright owner's right to compensation for the performance of his musical composition in a restaurant as a public performance for profit, even though there was no direct charge for admission to hear it.

May 14, 1917. The first definitive textbook on the act of 1909, *American Copyright Law*, by Arthur W. Weil (New York, Callaghan & Co.), was published.

December 18, 1919. An amendatory law providing for retrospective protection in the United States for books by foreign authors published during World War I but not protected in the United States because of conditions growing out of the war (41 Stat. 368, Public Law 102) was approved.

June 4, 1934. William Lincoln Brown, the second Register of Copyrights, was appointed.

August 1, 1936. Clement Lincoln Bouvé, the third Register of Copyrights, was appointed.

January 30, 1939. A Supreme Court decision was handed down in the landmark case of the *Washingtonian Publishing Co. v. Pearson*, 306 U.S. 30, to the effect that once the copyright has been secured by publication with proper copyright notice, the right to bring suit was not impaired by the delay in making registration (14 months had elapsed in this case), even though the infringement occurred before the date of registration.

July 31, 1939. An act transferring registration of commercial prints and labels from the Patent Office to the Copyright Office, effective July 1, 1940 (53 Stat. 1142, Public Law 244), was approved.

September 25, 1941. An amendatory law enabling the President by proclamation to extend the time for making copyright registrations for works published abroad (55 Stat. 732, Public Law 258) was approved. Its purpose was to prevent authors or copyright proprietors, whether citizens of the United States or nationals of other countries, from losing the opportunity to acquire or preserve protection for their works because of the disruption of communications by World War II.

February 1, 1945. Sam Bass Warner, the fourth Register of Copyrights, was appointed.

July 30, 1947. The copyright law was codified into positive law as Title 17 of the United States Code (61 Stat. 652, Public Law 281).

September 12, 1951. Arthur Fisher, the fifth Register of Copyrights, was appointed.

July 17, 1952. An amendatory law extending recording and performance rights to nondramatic literary works (66 Stat. 752, Public Law 575) was approved.

March 8, 1954. The Supreme Court handed down a decision in the landmark case of *Mazer v. Stein*, 347 U.S. 201, to the effect that works of art embodied in useful articles may be copyrighted.

August 31, 1954. Implementing legislation, making it possible for the United States to ratify the Universal Copyright Convention, was enacted to take effect upon the coming into force of the convention in the United States (68 Stat. 1030, Public Law 743).

September 16, 1955. The Universal Copyright Convention, which had been proclaimed by President Eisenhower on August 5, 1955, together with the implementing legislation (Public Law 743), entered into force.

December 24, 1960. Abraham Louis Kaminstein, the sixth Register of Copyrights, was appointed.

September 19, 1962. The first of a number of stopgap measures to keep copyrights from expiring pending a general revision of the copyright law (76 Stat. 555, Public Law 87-668) was approved.

July 31, 1963. The first definitive textbook on the U.S. copyright law since the publication of the Weil text in 1917 was published under the title *Nimmer on Copyright*, by Prof. Melville B. Nimmer (Albany, M. Bender). Since its publication the work has been widely cited in court decisions.

March 9, 1964. The Supreme Court handed down two decisions, *Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, *Compco Corp. v. Day-Brite Lighting, Inc.*, 376 U.S. 234, which have had a fundamental effect on the entire field of intellectual property. In the decisions Justice Black indicated that state law may not forbid the copying of "whatever the federal patent and copyright laws leave in the public domain."

February 4, 1965. The legislative phase of the program for the general revision of the copyright law, authorized by Congress in 1955, began when Representative Emanuel Celler and Senator John L. McClellan introduced the 1965 bill (H.R. 4347, S. 1006, 89th Cong., 1st sess.).

April 11, 1967. The general revision bill which had been reintroduced in revised form in the 90th Congress by Representative Celler (H.R. 2512) and by Senator McClellan (S. 597) was passed by the House of Representatives, with amendments, by a vote of 379 yeas to 29 nays, but there was no further action.

June 17, 1968. A Supreme Court decision in *Fortnightly Corp. v. United Artists Television, Inc.*, one of the most important copyright cases of the 1960's, was handed down. Justice Stewart ruled for the majority, in a six-to-one decision—Justice Fortas wrote a dissenting opinion—that relays by CATV (community antenna television) systems of broadcasts do not constitute a "performance" under the copyright act.

December 10, 1969. The Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee approved for full committee consideration, with a number of important amendments and additions, S. 543, the bill for general revision of the copyright law which had been reintroduced in the 91st Congress by Senator McClellan.

In addition to the Annual Reports of the Registers of Copyright, the following publications served as the principal sources of information for this list:

Richard Rogers Bowker, *Copyright, Its History and Its Law* (Boston, 1912).

Bruce W. Bugbee, *The Genesis of American Patents and Copyright Law* (Washington, 1967).

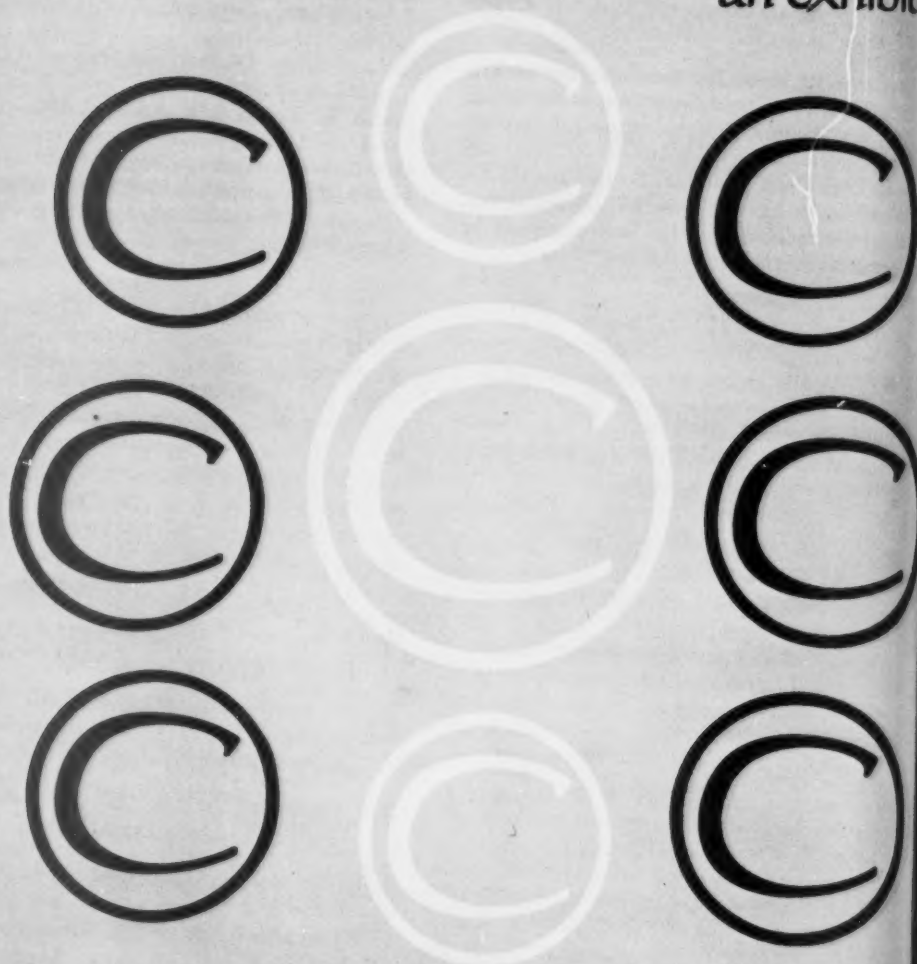
Richard Crosby De Wolf, *An Outline of Copyright Law* (Boston, 1925).

Joseph W. Rogers, *U.S. National Bibliography and the Copyright Law* (New York, 1960).

U.S. Copyright Office, *Copyright in Congress, 1789-1904*, prepared by Thorvald Solberg, Register of Copyrights. Bulletin No. 8 (Washington, 1905).

A CENTURY OF COPYRIGHT

an exhibit



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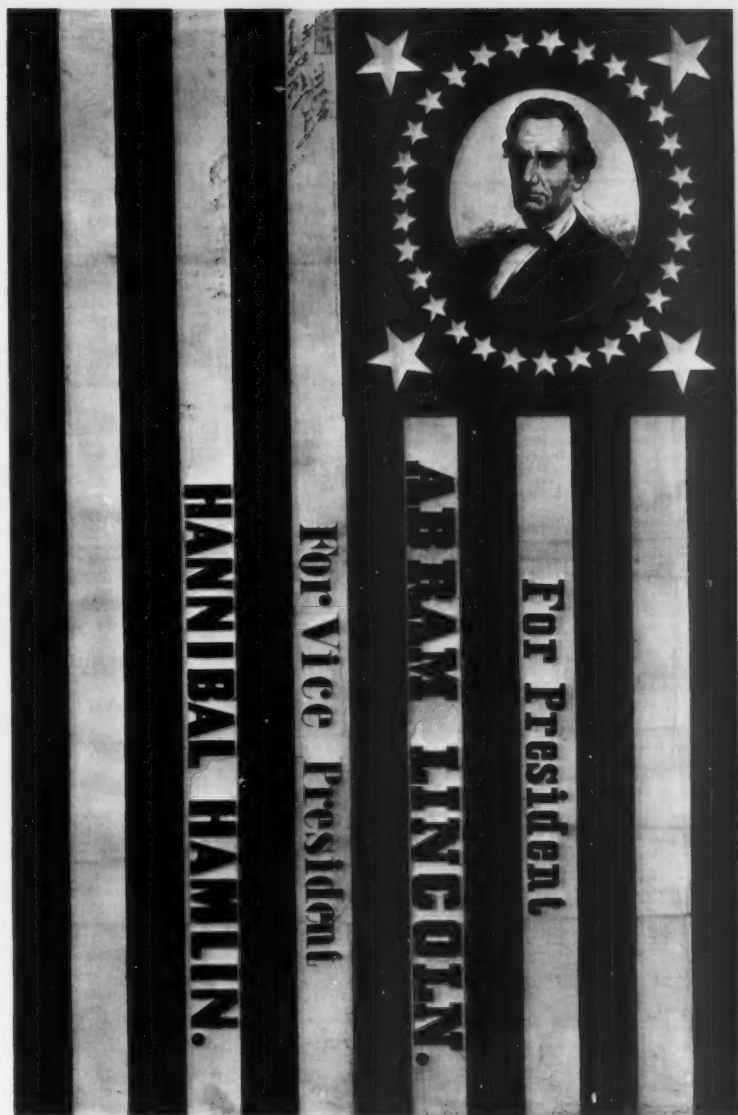
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Facing page: Title poster for the exhibit marking the 100th anniversary of the law making the Library of Congress the central agency for the registration and custody of copyright deposits in the United States.

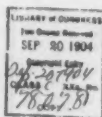
Red, white, and blue campaign banner, copyrighted by H. C. Howard, 1860.

The exhibit was arranged under the direction of Herbert J. Sanborn, Exhibits Officer of the Library of Congress, and coordinated by Donald F. Reines of the Copyright Office. Staff members of the Reference Department assisted. The highlights were selected by Warren McKay of the Copyright Cataloging Division.



Displayed in the Library's Great Hall from July 8 through August 20, 1970, the exhibit *A Century of Copyright* included some 80 items drawn from the Library's collections—among them books, music, banners, posters, maps, photographs, documents, computer programs, and motion pictures—tracing the development of the copyright law. Noted too were the contributions of Ainsworth Rand Spofford, Librarian of Congress from 1865 to 1897, Thorvald Solberg, the first Register of Copyrights, Mark Twain, and Theodore Roosevelt. A separate section of the exhibit dealt with efforts since 1955 to revise the outmoded law of 1909, another with international copyright conventions, and a third with American winners of the Nobel Prize for Literature, showing quotations from their acceptance speeches and selected copyrighted works.

Highlights of the exhibit follow.



Copyright, 1876, by G. SCHIRMER.

Copyright renewed, 1904, by Dudley Buck.

Photocopyd by Sarrs & McDowell, 38 Buchanan Street, New York.

THE CENTENNIAL MEDITATION OF COLUMBIA.

From this hundred-terraced height
Sight more large with nobler light
Ranges down yon towering years:
Humbler smiles and lordlier tears
Shine and fall, shine and fall,
While old voices rise and call
Yonder where the to-and-fro
Weltering of my Long-Ago
Moves about the moveless base
Far below my resting-place.

Mayflower, Mayflower, slowly hither flying,
Trembling Westward o'er yon balking sea,
Hearts within *Farewell dear England* sighing,
Winds without *But dear in vain* replying,
Gray-lipp'd waves about thee shouted, crying
No! It shall not be!

Jamestown, out of thee—
Plymouth, thee—thee, Albany—
Winter cries, *Ye freeze: away!*
Fever cries, *Ye burn: away!*
Hunger cries, *Ye starve: away!*
Vengeance cries, *Your graves shall stay!*

Then old Shapes and Masks of Things,
Framed like Faiths or clothed like Kings—
Ghosts of Goods once fleshed and fair,
Grown foul Bads in alien air—
War, and his most noisy lords,
Tongued with lithe and poisoned swords—

When the text for the official cantata of the Centennial Exposition of 1876 in Philadelphia, written by the American poet Sidney Lanier, was published without the music, it was ridiculed both for its form and its content. Lanier responded, characteristically, that the poetry could not be divorced from the music.

Facing page, above: First published under the title "You're a Grand Old Rag" and copyrighted on January 19, 1906, this popular song met with such protest over the reference to the American flag as a rag that the title and some of the words were changed. On June 2, 1906, the publisher copyrighted the revised version, "You're a Grand Old Flag."



4

Error, Terror, Rage and Crime,
All in a windy night of time
Cried to me from land and sea,
No! Thou shalt not be!

Hark!

Huguenots whispering *yes* in the dark,
Puritans answering *yes* in the dark!
Yes, like an arrow shot true to his mark,
Darts through the tyrannous heart of Denial.
Patience and Labor and solemn-souled Trial,
Foiled, still beginning,
Soiled, but not sinning,
Toil through the stertorous death of the Night,
Toil, when wild brother-wars new-dark the Light,
Toil, and forgive, and kiss o'er, and reflight.

Now Praise to God's oft-granted grace,
Now Praise to Man's undaunted face,
Despite the land, despite the sea,
I was: I am: and I shall be—
How long, Good Angel, O how long?
Sing me from Heaven a man's own song!

"Long as thine Art shall love true love,
Long as thy Science truth shall know,
Long as thine Eagle harms no Dove,
Long as thy Law by law shall grow,
Long as thy God is God above,
Thy brother every man below,
So long, dear Land of all my love,
Thy name shall shine, thy face shall glow!"

O Music, from this height of time my Word unfold:
In thy large signals all men's hearts Man's Heart behold:
Mid-heaven unroll thy chords as friendly flags unfurled,
And wave the world's best lover's welcome to the world.

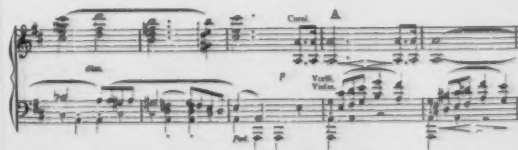
SIDNEY LANIER.

CENTENNIAL CANTATA.

Poem by SYDNEY LANIER.*

Music by DUDLEY BUCK.*

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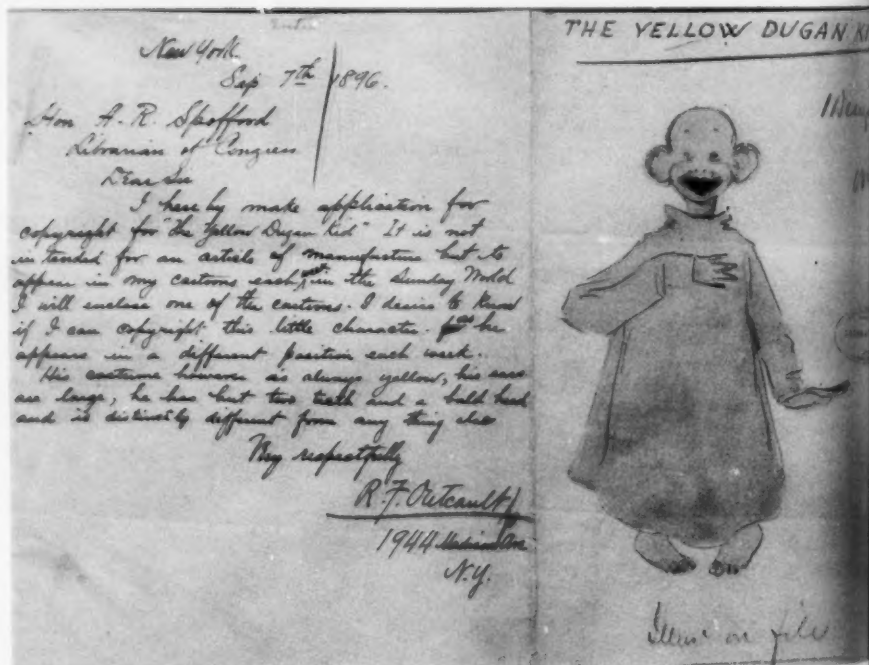


* By appointment of the U. S. Centennial Commission.



A photograph of Oscar Wilde was the subject of the landmark Burrow-Giles Lithographic Company v. Sarony Supreme Court case (1884), by which the protection of the copyright law was extended to photographs. They were not included in earlier laws, the Court said, because photography as an art did not then exist.

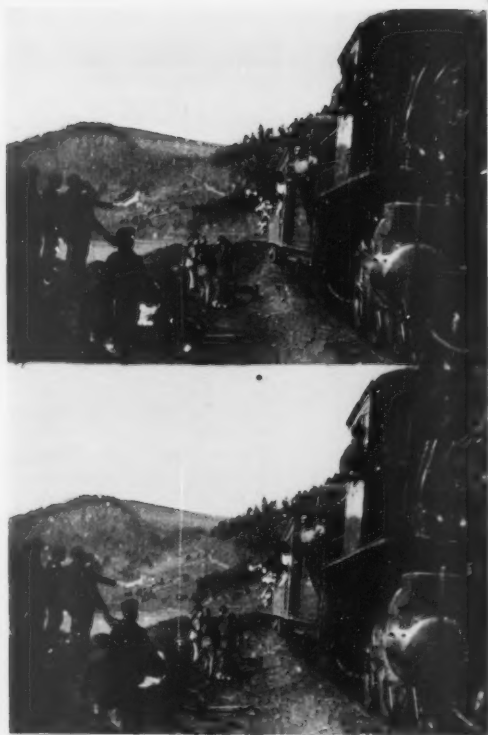
So distinctive was Outcault's comic character in his yellow dress and with his silly, toothless grin that he became the symbol of the new sensational approach to journalism at the turn of the 19th century, generating the term "yellow press," or "yellow journalism."





Wallace's Circus poster depicting the talents of the Stirk family became the subject of another landmark Supreme Court case, *Bleistein v. Donaldson Lithographic Company* (1903), by which the copyrightability of commercial art was established. In Justice Holmes' words: "A picture is none the less a picture, and none the less the subject of copyright, that it is used for an advertisement."

Although the textual or pictorial material on record jackets is copyrightable, records, as such, cannot be copyrighted.



The first copyright law protecting motion pictures was passed in 1912; until that date motion pictures, in the form of paper prints, were registered as photographs. Edison Kinetoscopic Record of a Sneeze, January 7, 1894, popularly known as Fred Ott's Sneeze, is the earliest motion picture registered for copyright in the United States for which the print has been located. The copyright claimant was William K. L. Dickson, the photographer. In 1897 Thomas A. Edison copyrighted Making Soap Bubbles, Mr. Edison at Work in His Chemical Laboratory, and Black Diamond Express.

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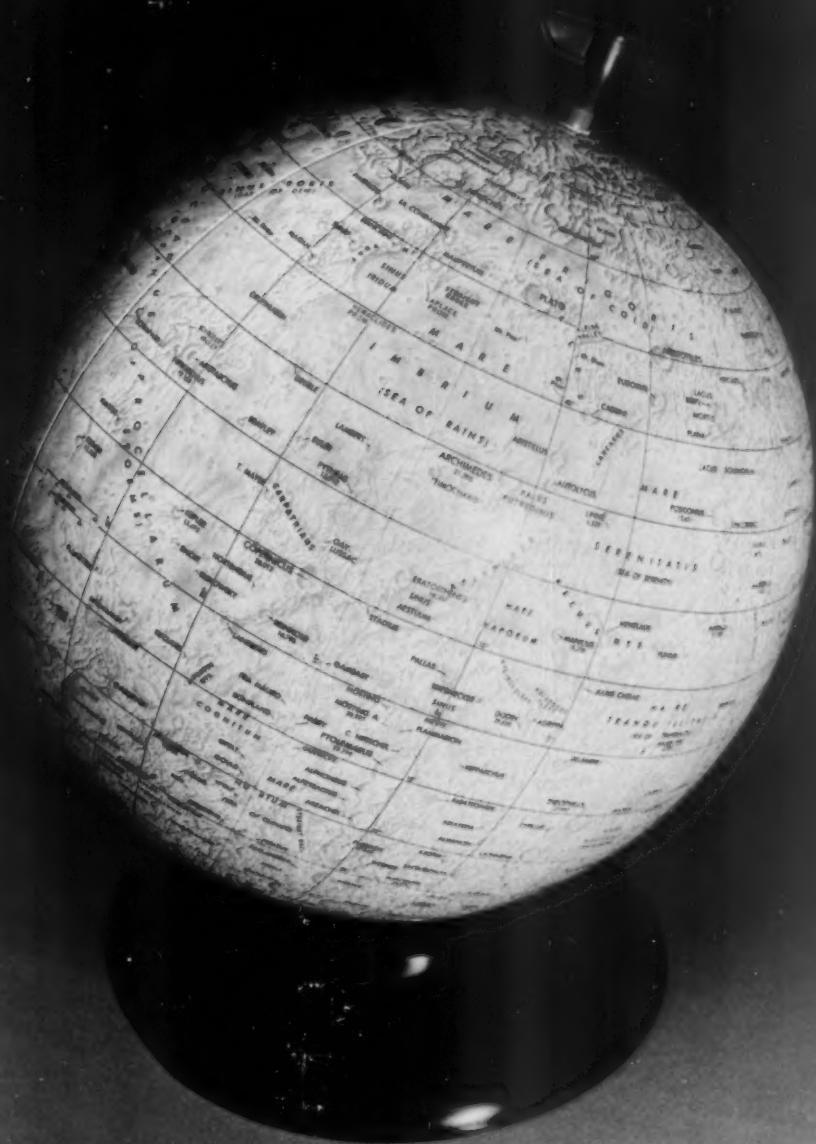
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Some Recent Publications of the Library of Congress¹

Periodical Literature on the American Revolution: Historical Research and Changing Interpretations, 1895-1970, a Selective Bibliography. Compiled by Ronald M. Gephart, member of the staff of the American Revolution Bicentennial program assigned to the General Reference and Bibliography Division. 94 p. \$1. This selective bibliography, with 1,122 entries arranged by subject and period, gives students, teachers, scholars, and librarians a convenient and representative guide to essays and periodical literature on the Revolutionary era that have appeared during the past 75 years in historical journals, festschriften, and collections of lectures or essays. The selections demonstrate the importance of periodical literature in the development of Revolutionary scholarship. A section entitled "Anthologies and Collections" is included to acquaint the

reader with currently available paperbacks that reprint some of the more important articles and essays. There is a separate list of titles and Library of Congress call numbers of all periodicals represented in the bibliography, as well as an author and a subject index.

Philosophies of American Music History. 18 p. Available upon request from the Library of Congress, Music Division, Washington, D.C. 20540. Published for the Library by the Louis Charles Elson Memorial Fund, this lecture was delivered in the Whittall Pavilion of the Library on January 9, 1969, by Robert Stevenson, author and internationally known researcher in music history of the United States, Central America, and South America.

Popular Names of U.S. Government Reports: A Catalog. Compiled in the Serial Division by Bernard A. Bernier, Jr., and Charlotte M. David. 43 p. 55 cents. This revision of the 1966 edition adds reports appearing after 1965 and reports published as early as 1821.

¹ For sale by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, unless otherwise noted.

The second in the Library of Congress series of recorded poetry readings by poets for the Archive of Hispanic Literature on Tape has just been released: "Gabriela Mistral Reading Her Own Poetry." The long-playing record includes 18 poems by the first Latin American writer to receive the Nobel Prize for Literature. From *Ternura*, *Tala*, and *Lagar*, the poems reflect the emotional depth and insight into values essential to contemporary man which made Gabriela Mistral one of the outstanding poets of Latin America. She was also a consul, journalist, professor, and consultant to international organizations. The Spanish text of the poetry is provided in the accompanying booklet. Available at \$4.95 from the Library of Congress, Recording Laboratory, Washington, D.C. 20540.



